

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**CRM-M No.35334 of 2020(O&M)
Date of Decision-08.12.2020**

Deepak ... Petitioner

Versus

State of Haryana ... Respondent

CORAM:-HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Baljeet Beniwal, Advocate
for the petitioner.

Mr. Ramesh Kumar Ambavta, Asstt., AG, Haryana.

RAJ MOHAN SINGH, J.

[1]. Petitioner seeks regular bail under Section 439 Cr.P.C in case bearing FIR No.27 dated 24.02.2020 registered under Sections 323, 376, 384, 457, 506 IPC at Police Station Women Ballabgarh, District Faridabad.

[2]. FIR was registered by the complainant with the allegations that the complainant runs a ladies make-up and confectionary shop in her house. Petitioner is residing in front of the house of the complainant and used to visit her shop. On 08.11.2019, the complainant and her two children were alone at her house as her husband had gone to UP. On that night, the petitioner trespassed into the house of the complainant and by putting something on her neck, took some obscene photographs after putting up her clothes and also prepared videos in his phone.

Petitioner raped her against her wishes and ran away. The

complainant was scared, therefore, she did not make any noise, nor tell to anyone. Next day, the petitioner came to the shop of the complainant and asked the complainant to give Rs.30,000/- under the threat of making the photographs viral. Under the fear, the complainant gave Rs.30,000/- to the petitioner. The husband of the complainant got to know about the said money. Husband of the complainant and other family members asked the petitioner and his father to return the money. On 18.02.2020, father of the petitioner returned the money in the presence of Panchayat. On 20.02.2020, the petitioner came to the house of the complainant and threatened and abused her. When the complainant resisted, the petitioner gave slaps and fist blows to her and he again demanded Rs.2 lacs from her. Thereafter, the petitioner went away. The complainant consumed some poisonous substance due to fear of defamation. After some time, she started vomiting. Her husband took her to hospital and got her admitted for treatment. Complainant has further alleged that the mother of the petitioner and his wife also abused her. FIR was registered on 24.02.2020 in respect of occurrence dated 08.11.2019 as well as in respect of occurrence dated 20.02.2020.

[3]. Learned counsel for the petitioner submitted that there is an unexplained delay of more than three months in lodging the FIR. Complainant is a married lady. The factum of consuming poisonous substance and inflicting injury on her person have been belied by the medical report. Complainant left the hospital against medical

advice. Complainant was admitted in various hospitals. She was admitted in B.K. Hospital, Faridabad on 20.02.2020. As per discharge summary, she was referred to higher centre for further management after doing gastric lavage. Thereafter, she was admitted in Zenith Hospital on 20.02.2020 itself with the history of ingestion of some unknown substance at home on 20.02.2020. She was hospitalized as a case of suspected poisoning. She left the hospital against medical advice (LAMA) on 21.02.2020. Doctor could not mention her condition at the time of her discharge except to show 'LAMA'. Thereafter, she was taken to Civil Hospital, Faridabad on 23.02.2020. She absconded from the hospital on 27.02.2020 and the doctor mentioned in the column of discharge as 'abscond'.

[4]. As per MLR conducted by B.K. Hospital on 28.02.2020, the alleged history was shown to be sexual assault on 08.11.2019 by the petitioner but no mark of external injury was seen. Vaginal swabs were not taken as the alleged incident was four months old. Clothes were also not taken as the alleged incident was four months old. However, the doctor gave the opinion that possibility of sexual intercourse could not be ruled out. Prosecutrix has left number of hospitals against medical advice and has been changing her stance repeatedly. The husband of the prosecutrix owed money to different persons as he was involved in the insurance scam for doubling the amount in the name of Sai Prasad Chit Fund Policy.

[5]. Father of the complainant had also moved a complaint before the Commissioner of Police, Faridabad for fair investigation in the case on the ground that husband of the complainant is an agent of life insurance and he had taken installments of the policies from him and thereafter, husband of the complainant told the father of the petitioner that insurance company has run away. On being asked to return the money, he stated that there was no fault on his part and he will not give back the money. Complainant used to talk to the petitioner and when husband of the complainant came to know about that he gave beating to his wife i.e. complainant and also threatened father of the petitioner for false implication in the case. Father of the petitioner also prayed that call details of the petitioner and the complainant be perused. He also denied return of Rs.30,000/- in the Panchayat.

[6]. Evidently, report of DITAC, Gurugram regarding mobile of the petitioner has not been received so far. The allegations of preparing obscene video of the prosecutrix is yet to be known. There is no conclusive medical opinion in respect of consumption of poisonous substance as the prosecutrix left different hospitals against the medical advice. The FIR was registered after delay of more than 3 months.

[7]. *Per contra*, learned State counsel opposed the bail on the ground that there are serious allegations against the petitioner

and non-availability of DITAC report is no ground for grant any indulgence in favour of the petitioner by this Court.

[8]. Petitioner is in custody since 28.07.2020. There is a delay of more than three months in lodging the FIR. Challan has already been presented on 23.08.2020, Charges have been framed, but no prosecution witness has been examined so far. FSL and DITAC reports have not been received. There are about 21 prosecution witnesses. The trial of the case may take some time in its culmination due to the situation arising out of pandemic Covid-19.

[9]. In view of above, without meaning anything on merits of the case, I deem it appropriate to enlarge the petitioner on regular bail subject to his furnishing adequate bail bonds and surety bonds to the satisfaction of the trial Court/concerned Duty Magistrate.

[10]. Nothing expressed hereinabove, shall be construed to be an opinion on merits of the case.

(RAJ MOHAN SINGH)
JUDGE

08.12.2020

Prince

Whether reasoned/speaking

Yes/No

Whether reportable

Yes/No