

S.No.101

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

CRM-M-36166 of 2020 (O&M)

Date of Decision:05.11.2020

Harpreet Singh

.....Petitioner

Vs.

State of Punjab

.....Respondent

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IN VIRTUAL COURT

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CORAM:- HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present:- Mr. Satnam Singh Thakur, Advocate for the petitioner.

Rajbir Sehrawat, J.(Oral)

The present petition has been filed by the petitioner for grant of anticipatory bail to the petitioner in case FIR No.100 dated 26.06.2020 registered under Sections 306, 34 IPC at Police Station Jamalpur, District Ludhiana.

The FIR in the present case came into existence on the statement of Kewal Singh, the father of the deceased, in short, alleging therein that his deceased daughter Akwinder Kaur was married with Harjinder Kumar about 13 years ago. She was having two children. Her husband had gone abroad. In absence of the husband, the petitioner developed illicit relations with the deceased. During the existence of this relation, the petitioner prepared certain obscene photos and videos of the deceased. Thereafter, the petitioner; along with his companions, started blackmailing and harassing the deceased. He started demanding money from the deceased. Not only this, the petitioner also sent the obscene photos and videos of the deceased to her husband; who is living abroad. Feeling

harassed on these counts, the deceased committed suicide. Accordingly, the present FIR came into being.

It is submitted by counsel for the petitioner that the case against the petitioner is totally concocted. It is further submitted that the deceased is alleged to have died at the time when she was with her parental family. The post mortem report has not been received so far. Therefore, even this is not clear whether the deceased committed suicide or not. Still further, it is submitted that nothing is to be recovered from the petitioner. One of the co-accused of the petitioner has already been granted concession of anticipatory bail. Hence, the petitioner deserves to be protected against his arrest.

Notice of motion.

Mr. Dhruv Dayal, Sr. DAG, Punjab, accepts notice on behalf of the State.

Learned State Counsel, on instructions from ASI Jatinder Kumar, has submitted that the name of the petitioner is specifically mentioned in the FIR. In fact, the petitioner is the main accused in this case. There are direct allegations against the petitioner that he had developed illicit relations with the deceased. Subsequently, he started blackmailing the deceased and he had even sent the obscene photographs and the video of the deceased to her husband. The investigation of the case is at the initial stage. The Police has to recover the obscene videos and photos from the petitioner, besides recovering other evidence to substantiate the allegations levelled against him. It is further pointed out by learned State Counsel that

the Police have already found videos showing the petitioner and the deceased together. The Police are yet to recover more videos and photographs. Hence, the petitioner does not deserve any concession of anticipatory bail.

No doubt, the accused as a citizen also has a right to life and liberty; as guaranteed by the Constitution of India. However, this right can very well be curtailed in accordance with the procedure established by law. In case of criminal investigation, the normal procedure prescribed for curtailing the right to life and liberty, as prescribed under Cr.P.C; is that the Investigating Officer can arrest the accused even without warrant. Therefore, to ensure that an innocent person is not unduly harassed by the Investigating Agency, an extra-ordinary power has been conferred upon the Courts under Section 438 Cr.P.C. However, this power is so extra-ordinary that it is not even available in some part of the country qua all the offences and under some special statutes qua some specified offences, this power is not available even throughout the country. Hence, this power has to be exercised by the Courts with due circumspection. This power can be exercised by the Courts only when the facts and circumstances of the case lead, predominantly, towards the ex-facie innocence of the accused, coupled with the fact that the investigation of the case would not be unduly hampered by grant of protection to the accused.

Coming to the facts of the present case, This Court finds that there are specific allegations against the petitioner that the petitioner developed illicit relations with the deceased in absence of her husband who was abroad. Still further, there are allegations that during the existence of

the said relation, the petitioner created obscene photographs and videos of the deceased and started blackmailing her. As per the allegations, the petitioner even sent the obscene photographs and videos of the deceased to her husband. The Police even claimed to have found some videos showing the petitioner and the deceased together in a joyful mood. Therefore, the petitioner cannot deny the relations altogether. Moreover, even pleadings in the petition of the petitioner have not ruled out the illicit relations with the deceased. Therefore, this Court does not find any ex-facie innocence on the part of the petitioner vis-a-vis, the allegations levelled against him. Still further, this Court finds substance in the argument of the counsel for the State that the investigation is at the initial stage and that the custodial interrogation of the petitioner would be required to collect the material to substantiate the allegations against him, as well as, to recover the obscene videos and photographs. Therefore, if the petitioner is protected against his arrest at this stage, then, the free and fair investigation of the case shall also be hampered. Hence, this Court does not find this to be a fit case to exercise its powers under Section 482 Cr.P.C.

Although the petitioner has argued that the co-accused has been granted concession of anticipatory bail, however, the Court finds that there is absolutely no parity of role attributed to the petitioner and to the said co-accused. The said co-accused is alleged to have only taken the mobile phone number of the deceased and given the same to the petitioner for contacting the deceased. Thereafter, it is the petitioner only who is alleged to have an illicit relations with the deceased and done everything else.

In view of the above, finding no merit in the present petition,
the same is dismissed.

November 05, 2020
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(RAJBIR SEHRAWAT)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No