

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-37405 of 2020

Date of Decision: 17.11.2020

RAJESH RAM

.....Petitioner

V/s.

STATE OF HARYANA

.....Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Ms. Shivani Kant, Advocate,
 for the petitioner.

 Mr. Abhinash Jain, Deputy Advocate General, Haryana.

 Mr. Rajesh Lamba, Advocate,
 for the complainant.

SUVIR SEHGAL, J. (Oral)

The hearing of the petition has been taken up through video conferencing on account of outbreak of Corona Virus (COVID-19) pandemic.

Through the instant petition filed under Section 439 of the Code of Criminal Procedure, 1973 the petitioner is seeking grant of regular bail in case bearing FIR No.118 dated 21.08.2020 registered under Section 376(2)(n), 354-A, 451, 384, 354-D, 506, IPC, 1860 and Section 67-A of the Information and Technology, Act, 2008 registered at Women Police Station, Ballabhgarh, District Faridabad. (Annexure P-1).

As per the version of the prosecution, FIR was registered on the complaint of a 21-year-old college girl (hereinafter referred to as “the prosecutrix-victim”) wherein she alleged that the accused-petitioner, who is her neighbor, took her to a Hotel in Faridabad on some pretext and

established sexual relationship with her against her will. The accused made her obscene videos and clicked her pictures in compromising position. He started blackmailing her and called her to the hotel again. The accused extracted a gold chain of the mother of the petitioner and Rs.30-40,000/- from the prosecutrix-victim. It was further alleged that about a month back, the brother-in-law of the accused, Pradeep, called up her brother and demanded Rs.5,00,000/- and threatened to make viral the obscene videos and pictures of the prosecutrix-victim. She further mentioned that the accused sent the obscene videos and pictures to her brother and uncle (Mama). The accused was arrested on 08.09.2020.

Counsel representing the petitioner has argued that the prosecutrix-victim had established consensual relationship with the petitioner and she wanted to marry the petitioner despite the fact the he was already married. She has urged that the FIR was registered during the lockdown period when the accused who was working as a painter, went back to his native village in Bihar and broke-up the relationship with the prosecutrix-victim. She has further submitted that there are discrepancies in the complaint on the basis of which FIR (Annexure P-1) was registered and her statement (Annexure P-2) recorded before a police official on 22.08.2020. The counsel submits that there is a delay in the lodging of the FIR and the petitioner deserves to be enlarged on bail.

Opposing the petition, learned State counsel, who is assisted by the counsel for the complainant, has submitted that the statement of the prosecutrix-victim under Section 164 Cr. P.C. was recorded on 25.08.2020 wherein she has supported the allegations leveled in the FIR. Upon instructions from the Investigation Officer, ASI Sangeeta, it has been

submitted that four 4 mobile phones with obscene videos and pictures were recovered from the petitioner and the offence under the provisions of the Information and Technology Act, 2008 was added in the FIR. He has also made a reference to the whatsapp chat between the petitioner and the brother of the prosecutrix-victim whereby demand of money was made. She further submits that the videos and pictures had been circulated by the petitioner and the recovered material has been sent for analysis and the report of the Forensic Science Laboratory is awaited.

I have considered rival submissions of the parties.

There are very specific and serious allegations against the petitioner regarding rape, stalking, sexual harassment, criminal intimidation, etc. The prosecutrix-victim has not only given the details of the alleged incident in the complaint but has even supported it in her statement recorded before a police official on 22.08.2020 (Aneexure-P2) as well as her statement under Section 164 of the Cr. P.C. The objectionable material has been found stored in the mobile phones recovered from the accused-petitioner which he has forwarded to the relations of the prosecutrix-victim. The Court has been informed that the petitioner used to modulate his voice and call up the brother of the prosecutrix-victim and blackmail him to pay money. Whatsapp chat from the mobile of the accused making demand of money is the clincher and the entire defence story falls flat in the light of this incriminating evidence. The probability of the petitioner and Pardeep being one and the same person and the involvement of the petitioner in the heinous crime cannot be ruled out.

Neither the so-called minor discrepancies nor the alleged delay is of any significance. The observations of the Supreme Court in

Criminal Appeal No. 680 of 2020 (arising from SLP (Criminal) No. 4976/2020 titled as **Ganesam** Vs. **State represented by its Inspector of Police** in para 11 deserve to be noticed:-

“11. In State of Punjab vs. Gurmit Singh, (1996) 2 SCC 384, this Court held that in cases involving sexual harassment, molestation etc. the Court is duty bound to deal with such cases with utmost sensitivity. Minor contradictions or insignificant discrepancies in the statement of the prosecutrix should not be a ground for throwing out an otherwise reliable prosecution case. Evidence of the victim of sexual assault is enough for conviction and it does not require any corroboration unless there are compelling reasons for seeking corroboration. The Court may look for some assurances of her statement to satisfy judicial conscience. The statement of the prosecutrix is more reliable than that of an injured witness as she is not an accomplice. The Court further held that the delay in filing FIR for sexual offence may not be even properly explained, but if found natural, the accused cannot be given any benefit thereof.”

In the light of the above discussion and background, no ground is made out for grant of regular bail to the petitioner more particularly because investigation is underway and the challan by the prosecution is yet to be filed.

Petition is, accordingly, dismissed.

It is clarified that any observation made hereinabove shall not be construed to be an expression on the merits of the case.

November 17, 2020

Ess Kay

**[SUVIR SEHGAL]
JUDGE**

<i>Whether speaking / reasoned</i>	:	<i>Yes</i>
<i>Whether Reportable</i>	:	<i>Yes</i>