

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(216)

CRM-M-2231-2021

Date of decision: 20.04.2021

Ram Lakhan @ Kalia

...Petitioner

Versus

The State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Rahul Vats, Advocate
for the petitioner.

Mr. Gurmeet Singh, AAG, Haryana.

...

SUVIR SEHGAL, J. (Oral)

The Court has been convened through video conferencing due to Covid-19 pandemic.

Instant second petition has been filed under Section 439 of the Code of Criminal Procedure Code, 1973 for grant of regular bail in case FIR No.43 dated 03.03.2020, registered under Sections 323, 354-A, 354-B, 376 (N) (2), 452 & 506 and Section 450 was added and Sections 323, 354-A, 354-B, 452 and 506 of the Indian Penal Code, 1860 were deleted later on, at Police Station Safidon (Sadar Safidon), District Jind, Haryana.

FIR (Annexure P-1) has been lodged on the statement of the

prosecutrix on the allegation that the petitioner had clicked her obscene photographs while she was taking bath and blackmailing her, raped her for six months.

Counsel for the petitioner submits that the prosecutrix is the aunt of accused-petitioner and there is a major age difference between them. He submits that the prosecutrix, who is mother of four children, has levelled false allegations against the petitioner. Counsel has made a reference to the photographs (Annexure P-6) to submit that the relations between them were consensual.

State counsel upon instructions from ASI Rajesh Kumari has opposed the petition and submitted that not only specific allegations have been levelled in the FIR but the prosecutrix has also supported them in her statement recorded under Section 164 Cr.P.C. Still further, he submits that the trial is fixed for consideration of framing of the charge but the petitioner is deliberately delaying the proceedings by seeking adjournments.

I have considered the rival submissions of the parties.

Allegations levelled against the petitioner are very serious, which have been supported by the complainant in her statement, recorded before the Magistrate under Section 164 Cr.P.C. The trial is yet to commence and grant of bail to the petitioner at this stage is not warranted.

Instant second petition has been filed within a short period after the dismissal of the first petition. During the course of arguments, counsel for the petitioner could not point out any change of circumstances or fact situation.

In such a scenario, the filing of the second petition would amount to seeking review of the first judgment, which is not permissible in law as held by the Hon'ble Supreme Court of India in **Hari Singh Mann vs Harbhajan Singh Bajwa, (2001) SCC (Criminal) 169; State of Madhya Pradesh vs Kajad, 2001 SCC (Criminal) 1520** and **State of Maharashtra vs Capt. Buddhikota Subba Rao 1989 Suppl. (2) SCC 605.**

Petition is, accordingly, dismissed.

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

(SUVIR SEHGAL)
JUDGE

20.04.2021
Kamal

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No