

In virtual Court

CRM-M-5147-2021

-1-

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

CRM-M-5147-2021 (O&M)

Date of decision: 23.09.2021

Sejal Sharma

... Petitioner

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Vinod Ghai, Sr. Advocate with
Ms. Kanika Ahuja, Advocate
for the petitioner.

Mr. Deepak Kumar Grewal, DAG, Haryana.

Mr. Ashwani Gaur, Advocate
for the complainant.

ARVIND SINGH SANGWAN, J. (ORAL)

Prayer in this petition is for grant of regular bail in FIR No.342 dated 21.10.2020 under Sections 120-B, 190, 328, 342, 355, 387, 506 IPC (Section 25 of Arms Act was added later on), registered at Police Station Murthal, District Sonapat.

On 10.02.2021, while granting interim bail to the petitioner, following order was passed by this Court: -

“...Learned senior counsel for the petitioner submits that the petitioner is a young girl aged about 20 years and her father has

died. As per allegations in the FIR, registered at the instance of one Haripal, it is stated that he is property dealer and he was familiar with co-accused Rajesh @ Kala and Surender for last many days, as they are also engaged in property dealing in Sonapat and are living in a flat in front of village of the complainant. It is further stated in the FIR that on 04.09.2020, Surender called the complainant from his mobile No.88130-82970 to mobile number of the complainant i.e. 83978-57600 and asked him to come to his flat. When the complainant reached the flat, Rajesh @ Kala and Surender were present and a young girl was also present. While they were talking to each other, they offered tea and after consuming tea, the complainant became unconscious and gained conscious after one hour and Rajesh @ Kala and Surender told him that they have taken his photographs and made an obscene video with the girl and threatened him to pay Rs.20.00 lacs, otherwise they will implicate him in a rape case. Thereafter, one more lady came there and they snatched his mobile phone and car key. In the meantime, the complainant escaped from the place. It is further stated that the complainant did not know both the women but could identify them. The complainant informed this incident to his wife Kailash and son Jaldeep and his wife had a talk with co-accused Rajesh @ Kala, who initially demanded Rs.20.00 lacs and later on, a settlement was arrived to pay Rs.1.50

lac, which was paid by wife of the complainant on 07.09.2020. Again on 20.09.2020, Rajesh @ Kala demanded Rs.53,000/- more and on that account, the complainant made a complaint and present FIR was registered on 21.10.2020.

Learned senior counsel for the petitioner has argued that in fact, with regard to an incident dated 03.09.2020, the petitioner has already reported to the police to register an FIR under Section 376 IPC against complainant Harpal @ Palu and FIR No.355 dated 29.10.2020 under Sections 328, 376, 506 IPC was registered at Police Station Murthal, District Sonapat. It is further argued that as per allegations in this FIR, when complainant Haripal (who is accused in FIR No.355) came to the flat of Surendra Singh, her uncle had gone out and in the meantime, Haripal committed rape upon her and she got registered the said FIR. It is next argued that another FIR No.439 dated 29.12.2020 under Sections 186, 332, 353, 506 IPC was registered at Police Station Murthal, District Sonapat against mother of the petitioner for misbehaving with the police officials and she has already been released on bail.

Learned senior counsel for the petitioner has next argued that even in the application seeking police remand, the police has given slightly different version with regard to the incident and a perusal of both the FIRs registered by the petitioner, of committing

rape with her and the present FIR, would show that complainant Haripal had an acquaintance with co-accused Rajesh @ Kala and Surender. It is further submitted that in such circumstances, FIR got registered by the petitioner, has not been properly investigated.

Learned State counsel, on instructions from ASI Kuldeep Singh, has, however, opposed the prayer.

On a Court query, whether any audio or video recording has been recovered, learned State counsel as well as learned counsel for the complainant, submit that an audio recording of complainant Haripal with co-accused Rajesh @ Kala and Surender as well as video clip of handing over some money to Rajesh @ Kala have been recovered, however, though the allegations in the FIR that some obscene video was recorded, depicts that the petitioner is involved, but no such obscene video is recovered.

List again on 03.05.2021.

In the meantime, Superintendent of Police, Sonapat is directed to constitute an SIT to be headed by a senior lady officer to investigate the allegations levelled in aforesaid FIR No.355 and submit the report. During the investigation, MLR of the petitioner be also conducted.

Till the next date of hearing, the petitioner is directed to be

released on interim bail subject to furnishing her bail/surety bonds to the satisfaction of the trial Court/Illaqa Magistrate, concerned.”

Status report by way of affidavit of Superintendent of Police, Sonipat is on record and as per this affidavit, a Special Investigating Team, headed by Assistant Superintendent of Police, Gohana, Sonipat and two other police officers, was constituted to investigate the allegations in FIR No.355 dated 29.10.2020 under Sections 328, 376, 506 IPC, Police Station Murthal, Sonipat, which was got registered at the instance of present petitioner Sejal Sharma, against Haripal @ Palu, with the allegations that on 03.09.2020, when she had gone to the flat of one Surender, who is friend of her father, Haripal @ Pallu was also present there. In the meantime, Surender @ Pathan received a phone call and he had gone outside for some urgent work, by saying that she should stay in the flat and he will return after some time. It is further stated that another person served her cold drink with some intoxicant and she fell unconscious and Haripal @ Pallu committed rape on her. It is also stated in the affidavit that on registration of the FIR, statement of the petitioner under Section 164 Cr.P.C. was recorded by the Judicial Magistrate and as per MLR of the petitioner dated 10.11.2020, no injury marks were seen on her private parts, as the medical examination was done after about two months of the alleged incident. Copy of the statement under Section 164 Cr.P.C. and MLR are attached with the reply. It is further stated that the doctor handed over a parcel, after her medical examination, which was sent to FSL and as per FSL report,

attached with the reply, semen could not be detected on any of the exhibits and blood was also not detected on any of the exhibits.

It is further stated in the affidavit that present FIR No.342 was registered on the complaint given by Haripal @ Palu against petitioner Sejal Sharma, Surender @ Pathan, Meenu Handa and Rajesh @ Kala, with the allegations of blackmailing and extortion. SIT scrutinized the allegations of blackmailing and extortion. As per allegations in the FIR, complainant Haripal @ Palu is a property dealer and known to Rajesh @ Kala and Surender @ Pathan, who are also property dealers. Haripal @ Palu was called by Surender @ Pathan at his flat and when he reached there, he found Rajesh @ Kala, Surender @ Pathan and a young girl, where he was served with tea and thereafter, became unconscious. When he regained conscious after one hour, Rajesh @ Kala and Surender @ Pathan told him that they have made an obscene video of him with a girl and clicked some photographs and he has to pay Rs.20.00 lacs to them, otherwise they would implicate him in a false case of rape. It is further stated that Rajesh @ Kala even threatened his wife and later on, reduced the demand to Rs.1.50 lacs, which was given by his wife and his son to Rajesh @ Kala on 07.09.2020, however, on 20.09.2020, Rajesh @ Kala again called his wife and demanded Rs.53,000/- more and thus, it is stated that extortion calls are still coming.

It is next stated in the affidavit that during the investigation, Haripal @ Pallu joined the investigation and CD containing audio and video recording was taken in possession. Statements of the witnesses were recorded.

The petitioner was arrested on 29.12.2020 and suffered a disclosure statement admitting her guild and stated that she along with her companions Surender @ Pathan, Rajesh @ Kala and Meenu Handa had planned to implicate persons in false cases of rape and outraging the modesty and then to extort money from them, by putting them under pressure to involve in criminal case and in that process, by calling Haripal @ Pallu to the flat of Surender @ Pathan, they have clicked the photos and made video.

With regard to the investigation carried out by the SIT, it is stated as below: -

“11. That during the investigation as conducted by the SIT, it transpires that the incident was of dated 04.09.2020, instead of 03.09.2020 (as adduced by the petitioner in case FIR No.355). It is further revealed that the flat, where the alleged incident said to occur was originally belongs to one namely Ram Niwas, Professor in English Department, Kurukshetra University, Kurukshetra, bearing flat No.A-2-202, Espania Royal Flat, TDI Espania Royal, Nangal Khurd, Sonipat and had been taken on rent/lease for 11 months period, during the material time, by co-accused Surender @ Pathan S/o Kewal Singh, resident of Mehndipur, Sonipat. It is pertinent to mention here that no family was residing in the said flat as the family of Surender was residing at Village Mehndipur, Sonipat. It is further revealed that the said flat was consciously used by Surender @ Pathan and Rajesh @ Kala and his friends

*for largely for party purposes. It is pertinent at this stage to highlight that this Surrender @ Pathan (co-accused in case FIR No.342) has also preferred a CRM-M-40916 of 2020, to get the interim bail on the premise that he was not the owner of that flat but failed to substantiate the fact that he was the tenant in possession having a lease/rent deed on his name and be termed as the sole possessor of the said flat at the relevant time with care and custody and had taken the interim bail on the misleading grounds in the said case. **(The copy of the order of the interim bail in CRM-M No.40916 of 2020, is hereby annexed as Annexure R-4). (The copy of the lease/rent deed is also hereby annexed as Annexure R-5).***

12. That the SIT has further revealed that the stand of the petitioner to the extent that Surrender @ Pathan is the friend of his father is also wrong. In this regard it is submitted that as per the investigation conducted so far it transpired that the father of the petitioner namely Kamal Kumar had died in the year 2015 and never met with this Surrender @ Pathan during the relevant time and the petitioner herself admitted that she has acquainted with the co-accused Surrender @ Pathan in the year of 2016, itself. The petitioner never disclosed in which coaching classes she was taking classes.

13. That the SIT has investigated that the incident was of dated

04.09.2020 and in the morning Surender @ Pathan call this Haripal to come to his flat as both were known to each other. The call details were also substantiated to the same extent. It is further revealed that the incident was of 04.09.2020, where on asking of Surender @ Pathan this Haripal went to the said flat and has been served tea, where after consuming the said tea he was unconscious and when he regained the consciousness then the petitioner along with her co-accused namely Surender, Meenu Handa and Rajesh gave a threat to this Haripal and demanded Rs.20 lakhs from him otherwise threatened to register a false case of rape. In the said course of transaction, Meenu Handa came there on the pretext of being mother of the petitioner and gave threat and demanded money from Haripal, when this Haripal was unable to give the same, the car keys and mobile phone had been seized by the petitioner along with her co-accused and said Haripal rushed from the spot immediately. The fact of coming out from the flat was also stated by the guard posted in the city. It is also pertinent to mention here that no CCTV footage was recovered in this case as the case has been registered belatedly, whereas the capacity to store data by the CCTV cameras was of only fifteen days. It is pertinent to mention here that the case was reported only on 29.10.2020, when an extortion case regarding the blackmailing Haripal was already registered against the petitioner and her co-

accused vide dated 20.10.2020, as case FIR No.342.

14. That it transpires during the investigation that there are four persons in the case FIR No.342, who habitually works to lay down the honey trap with the known persons in a false charge of rape and then demand money in lieu for the same. The conspiracy has been further revealed with the audio conversation of Meenu Handa with Surender @ Pathan (both prime accused in Extortion case) where Meenu Handa clearly saying to Surender that she will not allow Sejal to work with you anymore is annexed as Annexure R-6).

15. That it transpires from the conversation between Meenu Handa and Rajesh @ Kala, regarding the receipt of money and distribution of the same within themselves and also conversation between Surender @ Pathan and Meenu Handa. (The copies of both the conversation is hereby annexed as Annexure R-7).

16. That it is further revealed that the entire case FIR No.355 was a counter blast to put a pressure on Haripal @ Palu (the complainant in Extortion case) and falsity of case FIR No.355 has been reflected with the following attributed facts as under: -

- (a) The alleged incident took place on 04.09.2020, instead of 03.09.2020, as Haripal @ Pallu went to the flat of Surender @ Pathan on asking to come.***
- (b) The delay in lodging the case FIR No.355 dated 29.10.2020***

since the incident happened on 04.09.2020 earlier. No satisfactory explanation was given to lodge the FIR after almost two months if forcible sexual intercourse was committed.

- (c) That audio conversation between Meenu Handa and Surender @ Pathan with Rajesh @ Kala to demand money & part the money to their respective shares.*
- (d) The money was received by Rajesh @ Kala and the car keys and mobile phone of Haripal @ Pallu was handed over to him after the receipt of money of Rs.150000/-.*
- (e) The alleged disclosure statements of the petitioner and Meenu Handa, accepting their modus operandi to the same extent with others as well. **(The copies of disclosure statements of the petitioner and Meenu Handa are hereby annexed as Annexure R-8 and R-9 respectively).***
- (f) The video recording of the family members of Haripal, while giving extortion money to Rajesh @ Kala, where Rajesh @ Kala stated & admitted that both the petitioner & Meenu Handa are habitual to the same. **(A copy of the same is hereby annexed as Annexure R-10).***
- (g) The factum of friendship of the father of the petitioner with Surender @ Pathan also falsify the stand of the petitioner, whereas as per records, both were not known with each*

other.

- (h) The petitioner or her co-accused did not present any material which shows that the obscene act of Haripal with the petitioner was videographed or photographed, in order to substantiate the factum of rape commission by this Haripal.*
- (i) The conversation between petitioner and Meenu Handa regarding the apprehension of being an inquiry to be conducted in Extortion case. (A copy of the same is hereby annexed as Annexure R-11).*
- (j) The MLR and FSL report also falsify the stand of the petitioner.*

17. That all these circumstances cumulatively suggests that these four persons namely Meenu Handa, Surender @ Pathan, Rajesh @ Kala along with the petitioner have been running a racket and habitual to scold & blackmail people by threatening to implicate them in a false rape case. In this case also, after calling Haripal at his flat by Surender, they demanded Rs.20 lakhs, otherwise a false rape case be lodged against him and they also took the car keys & mobile phone of this Haripal on the same day i.e. 04.09.2020 and handed over the car and mobile phone when the money of Rs.150000/- (one lac and fifty thousand) was received by them through co-accused Rajesh @ Kala on 07.09.2020 and

they again demanded Rs.53,000/- from Haripal, again which leads this Haripal to lodge FIR No.342 dated 20.10.2020 for blackmailing & extortion and as a counter blast in order to make pressure over the extortion case, this instant false rape case FIR No.355 dated 29.10.2020 has been registered under Section 328, 376 & 506 IPC, P.S. Murthal, Sonipat, after so many days for which no plausible explanation has been given by the petitioner, which also make the story of petitioner a doubtful one and in this case, a cancellation report has been prepared by the Investigation Agency which is to be submitted in the ld. Court in a due course as per the statutory scheme.

18. That in the case FIR No.342 dated 21.10.2020 registered under Sections 120-B, 190, 328, 342, 355, 387, 506 IPC (Section 25 of Arms Act added later) at Police Station Murthal, Sonipat, the investigation agency after conducted an exhaustive investigation, a charge-sheet has been prepared against the petitioner along with her co-accused Meenu Handa, Surender @ Pathan, Rajesh @ Kala and to be submitted in the Ld. Court in a due course in accordance with law.”

Learned State counsel, on the basis of affidavit of DSP, HQ, Sonipat, has submitted that the petitioner and other accused are, in fact, involved in running a racket of Honey Trap and are blackmailing the people by threatening them to implicate in false cases of rape and therefore, the interim

bail granted to the petitioner be cancelled.

After hearing learned counsel for the parties, considering the fact that the petitioner has already been released on interim bail, I do not deem it appropriate to cancel the same.

Accordingly, the order dated 10.02.2021 passed by this Court, vide which interim bail was granted to the petitioner, is hereby made absolute.

However, a direction is issued to the Director General of Police, Haryana to communicate to all the Superintendents of Police in the State of Haryana that in case, in future, any FIR is registered at the instance of petitioner Sejal Sharma, co-accused Meenu Handa, Surender @ Pathan and Rajesh @ Kala, levelling allegations of rape or molestation against any person, no FIR will be registered, unless the matter is thoroughly inquired into by the police. It is also directed that at all District Headquarters, a record be maintained by SP Office concerned regarding such or similar complainants, who have registered more than one complaint of allegation of rape or where complaints are made by victims of Honey Trap, so as to keep a check and to protect innocent citizens. A compliance report be submitted before 10.01.2022.

With the aforesaid observations made and directions issued, present petition is disposed of.

[ARVIND SINGH SANGWAN]
JUDGE

23.09.2021
vishnu

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No