

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M No.16096 of 2021
Date of Decision : 13.09.2021

Sunil Sharma @ Monuravan

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MRS. JUSTICE ALKA SARIN

Present: Mr. Rahul Rathore, Advocate for the petitioner.

Ms. Ambika Sood, Addl. AG Haryana.

ALKA SARIN, J.

Heard through video conferencing.

This is the second petition under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the petitioner in FIR No.58 dated 27.08.2020 under Sections 376-D, 328, 506 of the Indian Penal Code, 1860 and Sections 67A of the Information Technology Act, 2000 registered at Police Station Women Karnal, District Karnal. The first petition being CRM-M-41319-2020 filed by the petitioner was dismissed as withdrawn on 11.01.2021.

As per the averments in the FIR (Annexure P-1), about 7-8 months back the son of the complainant's sister was not well and was taken to Sri Hari Hospital. Since his condition was not good the men-folk stayed back and the complainant along with her daughter started going towards the bus stand to return to her village. The two accused were outside with a car and being neighbour the complainant got into the car. After going a distance the two accused gave the complainant some intoxicating substance and then

both raped her and threatened her to do as they said otherwise they would kill her daughter. The complainant did not inform her family because of fear. Then they started blackmailing the complainant and on 22.08.2020 indecent photos of the complainant were received by her brother-in-law on Whatsapp followed by calls causing distress to the complainant and her family and she felt threatened.

Learned counsel for the petitioner has contended that the allegations in the FIR are false and frivolous and that there was an unexplained delay in lodging the FIR. Counsel for the petitioner has contended that the petitioner is not named in the FIR and while framing the charges on 15.03.2021 the petitioner has not been charged under Section 376 IPC and is only charged of offences under Sections 120-B, 354-C IPC and Sections 66-E and 67-A of the Information Technology Act, 2000. It is also submitted that a similarly situated co-accused Sanjay, who has been charged under the same sections as the petitioner, was granted bail by the learned Magistrate on 07.10.2020 even before framing of the charges. It has further been contended that the petitioner has been in custody since 17.10.2020 and the trial is likely to take time and therefore the petitioner be granted bail. He further submits that since the withdrawal of the first petition for regular bail the charges have been framed and trial has commenced.

Learned counsel for the State has filed a reply dated 07.08.2021 by way of affidavit of Jagdeep Singh, HPS, Deputy Superintendent of Police, Karnal-II. In the reply it is inter-alia stated that the medical examination of the complainant was got conducted and her statement under Section 164 CrPC was also recorded. During the course of investigation co-accused Sanjay Kumar suffered a disclosure statement that the naked

photographs of the complainant were sent by the petitioner for further sending to the brother-in-law of the complainant. Sanjay Kumar was arrested on 06.10.2020. Thereafter the co-accused Deepak @ Laddi was interrogated and the mobile phone which was used in the commission of the crime was recovered. Deepak @ Laddi was arrested on 07.10.2020. The petitioner was interrogated and the mobile phone used in the commission of the crime was recovered. The petitioner was arrested on 17.10.2020. It is not denied that the petitioner has not been charged under Section 376 IPC. The reply also states that three other FIRs were registered against the petitioner – FIR No.409/2020 under Sections 323, 325, 506 and 34 IPC; FIR No.548/2015 under Sections 323, 148, 149, 324, 307, 506 IPC and FIR No.536/2015 under Sections 323, 148, 149, 324, 506 IPC, all at Police Station Assandh.

I have heard counsel for the parties. Though the accusations against the petitioner are serious, he has been behind the bars for almost a year. The reply filed by the State does not mention any further recoveries to be made from the petitioner. A co-accused charged under the same provisions of law as the petitioner has already been granted bail. As far as the lodging of other FIRs against the petitioner are concerned, suffice it to say that the law will take its course in those cases.

In view of the above and without commenting upon the merits of the case, also considering the fact that the trial is likely to take some time to conclude, I deem this to be a fit case for grant of regular bail to the petitioner. The petitioner is directed to be released on bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the Illaqa Magistrate/Duty Magistrate/Trial Court concerned.

However, the Prosecution will always be at liberty to apply for cancellation of bail in case the petitioner is found to be misusing the concession of bail in any manner.

It is also made clear that any observation made herein shall not be treated as an expression of opinion on the merits of the case.

Disposed off.

(ALKA SARIN)
JUDGE

13th September, 2021
jk

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO