

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Criminal Misc.-M No. 18450 of 2021
Date of Decision: May 26, 2021

Shiv Kumar

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Punit Malik, Advocate,
for the petitioner.

Mr. Kanwar Sanjiv Kumar, AAG, Haryana.

MANOJ BAJAJ, J. (Oral)

CRM-15309-2021

Prayer in the application is for placing on record statement under Section 164 Cr.P.C. as Annexure P-7.

Application is allowed. Statement Annexure P-7 is taken on record.

CRM-M-18450-2021

Petitioner has filed this petition under Section 439 Cr.P.C. for grant of regular bail, pending trial in case FIR No.1407 dated 11.12.2020, under Sections 323, 354-D, 452, 506 IPC, 1860 and Section 376 IPC (added later on), registered at Police Station, Shivaji Nagar, District Gurugram. The petitioner is in custody since his arrest on 15.12.2020.

The contents of the FIR, as recorded by the Additional Sessions

Judge, Gurugram in para 3 of the order dated 22.04.2021, are as under:-

“The brief facts of the prosecution case are that on 11.12.2020, the prosecutrix, came to the police station and presented written complaint with allegations that she was permanent resident of Danpur, District Bulandsehar. At present, she was residing in Om Nagar, Gurugram. Before lockdown was imposed, she was working in Mohali, Chandigarh and lived on rent. During that period, she came in contact with one Shiv Kumar son of Surender Kumar resident of Golani, District Ropar, Punjab and they became friends. However, he started making her uncomfortable, so, she maintained distance from him but Shiv Kumar continued to make telephonic calls to her. Being fed up with his persistent calls, she came to Gurugram to live with her parents. Still, Shiv Kumar did not stop calling her on phone and continued to harass her. He even gave threats to her and her parents of dire consequences. On that day, i.e., 11.12.2020, Shiv Kumar came in Maruti Swift bearing No.CH01-AX-9926 and parked his vehicle in front of their house. Then he came inside and at that time, her parents were on the roof while she herself was in the house all alone. On finding her alone, Shiv Kumar started behaving inappropriately with her and tried to touch her chest. She, with great difficulty, screamed for her mother. On hearing her scream, her parents came down stairs. Then, Shiv Kumar tried to grab her by neck and there were visible marks of fingers of Shiv Kumar on her neck. He even gave beatings to her father because of which, her father sustain injury on fingers of his right hand and on other bodily parts. He gave a shove to her father. Now, they had come in the police station and brought the car of Shiv Kumar through police crane. It was requested that a strict legal action be taken against the culprit.”

Learned counsel for the petitioner contends that the prosecutrix was already in live-in-relationship with the petitioner and later on falsely implicated the petitioner for the alleged offences mentioned in the FIR. In

this regard, he invited the attention of the court to Annexure P-2 the photographs of the prosecutrix with the petitioner. Learned counsel has pointed out that during the trial proceedings, the statement of the complainant has been recorded, who has not supported the prosecution case and was declared hostile. He has produced the copy of the said statement recorded on 05.04.2021. Learned counsel submits that since the trial is likely to consume considerable time, therefore, further custody of the petitioner may not be necessary.

On the other hand, the prayer is opposed by the learned State counsel, assisted by L/SI Saroj Kumari, on the ground that the offence is serious and specific allegations were levelled by the prosecutrix. However, it is not disputed that the statement of the prosecutrix has been recorded as PW-6 before the trial court.

After hearing the learned counsel for the parties and considering the above background, this court finds that the statements of material witnesses have been recorded, but still the conclusion of trial would consume some more time. Apart from it, the belligerent re-emergence of pandemic COVID-19 in the region has once again forced the governments of Punjab, Haryana and U.T.Administration, Chandigarh to impose various restrictions to clampdown the contagion, and it would further delay the conclusion of trial. Thus, the further detention of the petitioner behind the bars may not be necessary for any useful purpose, who is presently confined in judicial custody after his arrest on 15.12.2020.

Resultantly, without meaning any expression of opinion on the merits of the case, the petition is allowed and it is ordered that the petitioner be released on regular bail subject to his furnishing requisite bail

bonds/surety bonds to the satisfaction of the trial Court/CJM/Duty
Magistrate, Gurugram.

May 26, 2021
ramesh

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable:	Yes/No