

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(105+205)

CRM-M-20283-2021(O&M)

Date of Decision: 22.12.2021

Inder Kumar

--Petitioner

Versus

State of Punjab

--Respondent

CORAM:- HON'BLE MR. JUSTICE RAJESH BHARDWAJ.

Present:- Mr. Naveen Bawa, Advocate for the petitioner.

Ms. Sakshi Bakshi, A.A.G., Punjab.

Mr. Sandeep Kumar, Advocate for the complainant.

RAJESH BHARDWAJ.J (Oral)

CRM-33520-2021

Application is allowed as prayed for.

Documents at Annexure P-3 are taken on record.

Main Petition

The present petition has been filed under Section 439 Cr.P.C seeking the benefit of regular bail to the petitioner in case FIR No.0063 dated 23.3.2021 under sections 354-A, 354-B, 354-C, 506, 120-B I.P.C registered at Police Station, Jamalpur, District Ludhiana.

Succinctly the facts of the case are that the prosecutrix lodged the present FIR, wherein it was alleged that Inder Kumar son of Ram Chander Yadav i.e. the present petitioner was residing at the given address for the last 8 years. He used to help her father in their shop. On 1.11.2020 in the morning she went to bathroom to take bath and at that time her father and Inder Kumar were arranging goods in the boxes of the shop. Taking benefit of the situation petitioner videographed her from his mobile phone

when she was taking bath. Thereafter, Inder Kumar showed her bathing video on his mobile phone and she got afraid. It was further alleged that the petitioner sent the alleged video to his friend Deepak. The petitioner started exploiting her and finally the prosecutrix had no other option than to report the matter to the police. Consequently, the present FIR was lodged.

The investigation commenced and petitioner was arrested on 23.3.2021. He approached learned Addl. Sessions Judge, Ludhiana for the grant of bail but the same was declined vide order dated 30.4.2021. Aggrieved by the same, petitioner has approached this Court for grant of bail.

Learned counsel for the petitioner vehemently contends that the petitioner was falsely implicated in the present FIR and the very fact that no offence under the I.T Act is added in the FIR would show that the allegations are false and frivolous. Counsel submits that the investigation is complete and the challan has been presented, however, there is no recovery of any video as alleged in the FIR. Counsel further submits that the maximum sentence for the offence alleged is 3 years, whereas the petitioner has virtually completed 9 months behind bars. Counsel submits that the prosecutrix already stands examined before the Trial Court and thus there cannot be any alleged apprehension against the petitioner for interfering in the ongoing trial. Counsel prays that further incarceration of the petitioner is unwarranted and he deserves to be enlarged on bail.

Learned counsel for the complainant has vehemently opposed the submissions made by counsel for petitioner. He submits that there are serious allegations against the petitioner and hence no ground for grant of bail is made out.

On the other hand, learned State counsel submits that there are specific allegations against the petitioner. She further submits that victim is less than 18 years of age and if there was any consent on her part, the same has no legal sanctity in the eyes of law. However, she informs the Court that out of the 11 prosecution witnesses only one i.e. the complainant/prosecutrix has been examined by the Trial Court and she has supported the case of the prosecution.

I have heard learned counsel for the parties at length and have gone through the records made available.

Petitioner is behind bars since 23.3.2021. Investigation is complete and the learned Trial Court is seized of the matter. Statements of prosecution witnesses are being recorded and admittedly prosecutrix already stands examined.

In view of the peculiar facts and circumstances, I find that the veracity of the allegations levelled in the FIR would be established only after conclusion of the trial.

In the totality of circumstances and without making any observations on merits, present petition is allowed. Petitioner be enlarged on bail subject to satisfaction of Trial Court/Duty Magistrate, concerned. Nothing stated herein shall be treated as an expression on the merits of the case.

(RAJESH BHARDWAJ)
JUDGE

22.12.2021

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