

**In The High Court for the States of Punjab and Haryana
At Chandigarh**

CRM-M-27163-2020 (O&M)

Date of Decision:- 19.3.2021

Baljinder Singh

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Randeep Singh, Advocate, for the petitioner.

Mr. Ramesh Kumar Ambavta, AAG, Haryana,
assisted by ASI Suman.

Mr. Vikas Gulia, Advocate, for the complainant.

(Proceedings conducted through video conferencing)

GURVINDER SINGH GILL, J. (Oral)

1. The petitioner has approached this Court seeking grant of anticipatory bail in respect of a case registered vide FIR No.54, dated 1.7.2020, Police Station Women Police Station Ambala, District Ambala, under Sections 419, 506, 509, 376 IPC (Section 376 IPC was added lateron).

2. The victim/prosecutrix has alleged that she came in contact with the petitioner through Facebook Messenger and that the petitioner represented that he was an “encounter specialist” and has to go wherever Government deputed him and the petitioner used to send his pictures while in uniform while stating that he was on a mission and also represented that he had been hit by a bullet during 26.11.2008, operation in Mumbai Taj protection. The complainant alleged that the petitioner represented that he had been injected with blood on account of the injuries and had got blood infection and also stated that he was a *manglik*. It is alleged that they became close on account of their conversations and he held out a promise to marry her. It is further alleged that later the complainant came to know that the petitioner was an imposter and had been telling lies to her regarding his being unwell and regarding his being an “encounter specialist” etc. It is further the case of prosecution that subsequently a supplementary statement as well as a statement under Section 164 Cr.P.C. of the prosecutrix was recorded wherein she alleged that the petitioner had even taken her obscene photographs and videos and had been blackmailing her and had also established physical relations by deceiving her.
3. Learned counsel for the petitioner has submitted that he has falsely been implicated in the instant case and that the prosecutrix is a matured lady aged about 38 years and it is unlikely that she would have been deceived in any manner by the petitioner and that she had voluntarily chosen to be friends with the petitioner.

4. Learned counsel has further submitted that matter in question was got thoroughly investigated by DSP who submitted his report (Annexure P-3), the relevant extract of which read as follows:

“..... As per the investigation done by the Investigating officer and record received from the cyber cell the mobile numbers from which obscene photos and videos were sent does not belong to the accused Balwinder Singh. This is found that some other unknown persons were sending obscene videos and photographs to the complainant through unknown numbers.....

After the thorough investigation in the FIR and on the basis of the whatsapp and facebook chatting, it is found that complainant Nisha Yadav and accused Baljinder Singh were in love and affairs. In this regard, it was also found in the in the prior investigation of the earlier complaints made to the Superintendent of Police Head Quarter Ambala vide 306-Email, dated 11-05-2020 and complainant 328-Email Dated 13-05-2020 that complainant and accused were in friendship through facebook and after that they were planning for marriage and then their relation got strained and they stopped talking to each other. In the investigation, no commission of the offence under Section 376 IPC is found to have been committed.....”

5. It has further been submitted that in the instant case the petitioner is employed in Haryana Police and as such it cannot be said that he had made any mis-representation to the prosecutrix and that since she had voluntarily entered into a relationship with the petitioner, it cannot be said that the petitioner had committed any offence and as such he deserves to be released on anticipatory bail.

6. Opposing the petition, learned State counsel assisted by learned counsel for the complainant has submitted that since it is apparent from the conversations between the petitioner and the complainant that he had been telling false stories so as to win her confidence and had falsely represented that he would marry her and thus established physical relations, no case for grant of anticipatory bail is made out.
7. It has further been submitted that despite the report of the DSP, the offence under Section 376 IPC has not been dropped and that keeping in view the serious nature of allegations, the petitioner does not deserve the concession of anticipatory bail. Learned State counsel has however, informed that pursuant to interim directions, the petitioner has since joined investigation and has also got himself medically examined.
8. I have considered rival submissions addressed before this Court.
9. Having regard to the nature of allegations and while noticing that it is a case where the complainant is not a teenager and is a matured lady aged about 38 years and it appears that they had entered into some kind of relationship, it will be debatable as to whether the physical relations, if established, between the parties were consensual or can be said to have been established on account of some deceit or by force. In any case, since the petitioner has already joined investigation and has also got himself medically examined, his custodial interrogation is not warranted. The petition, as such, is accepted and the interim directions issued by this Court vide order dated 10.9.2020 are hereby made absolute subject to the condition

that the petitioner shall join investigation as and when called upon to do so and cooperate with the Investigating Officer and shall also abide by the conditions as provided under Section 438 (2) Cr.P.C.

March 19, 2021

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**(GURVINDER SINGH GILL)
JUDGE**

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No