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

CRM-M-35309-2021

Date of decision : 09.12.2021

Sachin Kumar

.... Petitioner

Versus

State of Punjab and others

.... Respondents

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. J.S. Grewal, Advocate
for the petitioner.

Ms. Sakshi Bakshi, AAG, Punjab.

RAJESH BHARDWAJ, J. (ORAL)

Prayer in the present petition is for grant of regular bail to the petitioner in case FIR No.04 dated 20.01.2021, under Section 67 of the Information Technology Act (subsequently added Sections 376, 354, 354-C of the Indian Penal Code), registered at Police Station Khuhian Sarwar, Tehsil Abohar, District Fazilka.

As per the factual matrix of the present case, the FIR in question was registered by father of the prosecutrix, Hakam Chand, to take action against Sachin Kumar son of Inder Mohan i.e. the petitioner. It was alleged by the complainant that one year ago, the petitioner allured his daughter and developed love affair with her and thereafter, developed physical relations also. During the period, he clicked obscene photographs and prepared a video with his daughter which were made viral on social media. When the

said video reached to one of his relative, then he informed him through phone and his daughter did not disclose about the same due to fear. Thereafter, he found match for his daughter to get her married but when the petitioner came to know about it, he sent the said photographs to her in-laws to defame his daughter and the engagement was broken. The petitioner started harrasing his daughter time and again. The request was made to take action against the petitioner. After lodging of the FIR, the investigation commenced and the petitioner was arrested on 22nd February, 2021. He approached the learned Additional Sessions Judge, Fazilka for grant of bail, who after hearing the counsel for the parties, declined the same vide order dated 29th July, 2021.

Aggrieved by the same, the petitioner has approached this Court for grant of regular bail.

It has been contended by learned counsel for the petitioner that the petitioner has been falsely implicated in the FIR. He submits that the prosecutrix is of the age of majority and there cannot be any coercion or blackmailing on the part of the petitioner as alleged. He submits that initially FIR was registered only under Section 67 of the IT Act but thereafter, other Sections like 376, 354, 354-C of the Indian Penal Code were added without any medical record. He submits that the prosecutrix changed her statement while deposing under Section 164 Cr.P.C. so as to implicate the petitioner for the serious offences. He submits that the false allegatioins against the petitioner is writ large from the very fact that now the material witnesses i.e. prosecutrix and her father, both have been examined by the learned trial Court as PW-3 and PW-4 respectively. He has placed on record the copies of the statements of both the material witnesses

which show that PW-3, the prosecutrix deposed that the petitioner-Sachin neither used any criminal force against her nor uploaded her photographs on which her face was attached with the help of the computer application. She further deposed that she never made any complaint against the accused. On the request of learned Public Prosecutor, she was declared hostile. Similarly, on the same line, her father, the complainant of the FIR has been examined as PW-4 who again reiterated the deposition of the prosecutrix and he has also been declared hostile on the request of Public Prosecutor. Learned counsel further submits that as the material witnesses did not support the case of the prosecution, incarceration of the petitioner is totally unwarranted and he deserves to be enlarged on bail. He further submits that ocular version in FIR is not even medically corroborated.

Learned counsel for the State vehemently opposes the submissions made by learned counsel for the petitioner. She submits that there are specific allegations against the petitioner. She has further submitted that the petitioner is facing trial and has been convicted in another FIR bearing No.106 of 2015, under Sections 307, 324, 323 IPC on 30.08.2017. However, she candidly acknowledges that the material witnesses in the present case have not supported the case of the prosecution and they have been declared hostile.

I have heard learned counsel for the parties and perused the records.

Petitioner is behind the bars since 22nd February, 2021. The material witnesses have not supported the case of the prosecution. The prosecutrix is of the age of majority. Without commenting anything on the merits of the case, this Court finds that the veracity of the allegations would

be finally appreciated by the trial court after conclusion of the trial.

In the overall facts and circumstances of the case, it is apparent that the trial of the case will take sufficient time and no useful purpose will be served by keeping the petitioner in custody for such a long time. Keeping in view the abovesaid facts, this Court finds that learned counsel for the petitioner has succeeded in making out a case for grant of regular bail. Accordingly, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail/surety bonds to the satisfaction of the concerned trial Court/Duty Magistrate. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

09.12.2021
m. sharma

(RAJESH BHARDWAJ)
JUDGE

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