

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

101+219

(Through Video Conferencing)

CRM-M-42975-2021 (O&M)

Date of decision: 30.11.2021

Varinder Kamboj

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Sanjiv Gupta, Advocate
for the petitioner.

Mr. Luvinder Sofat, AAG, Punjab
for the respondent-State.

Mr. R.K. Handa, Advocate
for the complainant.

MANJARI NEHRU KAUL, J. (ORAL)

The present petition has been filed under Section 438 Cr.P.C. for grant of anticipatory bail to the petitioner in case FIR No.142 dated 25.09.2021 under Sections 354A and 354D IPC and Sections 67, 67-A and 67-B of the Information Technology Act, 2000 registered at Police Station Khuian Sarwar, District Fazilka.

Learned counsel for the petitioner *inter alia* contends that on account of a property dispute between him and the complainant i.e. the husband of the victim a false case has been planted upon him. He has submitted that the offences under Sections 354A and 354D IPC are bailable in nature. It has been submitted that as far as offences under Sections 67, 67-A and 67-B of the Information Technology Act, 2000 are concerned, the investigating agency failed to comply with Rule 4 of

the Information Technology (Qualification and Experience of Adjudicating officers and manner of Holding Enquiry) Rules, 2003, hence, on this ground itself he deserved the extraordinary concession of anticipatory bail. Besides the aforementioned, learned counsel has submitted that the FIR in question was registered at the instance of Manpreet i.e. the husband of the victim. Therefore, the complaint itself was not maintainable as the complainant was not an aggrieved party.

Vide order dated 12.10.2021, the State was put on notice. On the said date, learned counsel on behalf of the complainant had also put in an appearance.

Reply by way of affidavit of Sandeep Singh, PPS, Deputy Superintendent of Police, Sub-Division Abohar, District Fazilka on behalf of respondent-State has been filed.

Learned State counsel assisted by learned counsel for the complainant has vehemently opposed the prayer and submissions made by learned counsel opposite.

While inviting the attention of this Court to the reply filed by it, dated 08.11.2021, it has been submitted that since the complainant's wife was receiving continuous vulgar and obscene messages, and photographs on her Instagram ID Manjukamboj003 from Instagram ID Jyoti_kiran_i and harmanhanu_kaur from some unknown persons, a complaint was made by the complainant to the Senior Superintendent of Police, Fazilka which in turn was marked for enquiry to S.P., CAW, C.P., Special Branch, Fazilka. Learned State counsel has submitted that when a thorough enquiry was conducted and technical inputs were sought from Instagram, it was revealed that the said ID was

linked with one mobile No.75710-55384. Thereafter, when the IP addresses provided by the company were matched, it was further revealed that another mobile No.98883-10775 was also connected with the said id and was also being used to send obscene messages and photographs to the Instagram account of the complainant's wife. On further enquiry, it came to light that the mobile No.98883-10775 was registered in the name of the petitioner. Learned State counsel has submitted that enough incriminating evidence and material had been collected by the investigating agency against the petitioner which clinchingly revealed his active involvement and complicity in the crime in question.

Learned counsel for the complainant has submitted that there was also documentary evidence in the form of CCTV footage wherein the petitioner could be seen extending threats of dire consequences to the complainant and pressurizing him to withdraw the complaint against him. Obscene messages and photographs which had been posted by the petitioner on the Instagram account of the complainant's wife have also been placed on record vide Annexures A-1 and A-2.

Learned State counsel assisted by learned counsel for the complainant has, thus, prayed for dismissal of the instant petition by urging that since the petitioner is involved in a heinous crime, his custodial interrogation has become imperative.

I have heard learned counsel for the parties and perused all the material placed on record.

Prima facie there are very serious allegations levelled

against the petitioner for which his custodial interrogation would definitely be required by the investigating agency. No ground is, thus, made out to extend the extraordinary concession of anticipatory bail to the petitioner.

Dismissed.

CRM-38983-2021

Since the main case has been dismissed, the instant application also stands dismissed.

30.11.2021

(MANJARI NEHRU KAUL)

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JUDGE

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No