

228

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

CRM-M-46255-2021

Date of decision : 10.11.2021

Shekhar Khanna

.... Petitioner

Versus

State of Haryana

.... Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Dheeraj Mahajan Advocate
for the petitioner.

Mr. Vishal Kashyap, DAG, Haryana.

Ms. Sheenam Kamboj, Advocate
for the complainant.

RAJESH BHARDWAJ, J. (ORAL)

Petitioner has approached this Court praying for grant of regular bail under Section 439 Cr.P.C., in a case bearing FIR No.260 dated 15.07.2019, under Sections 376(2)(n), 323, 506, 509, 34; Section 67-A of Information Technology Act and Section 3(2)(v) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, at Police Station Old Sabzi Mandi, Rohtak, District Rohtak.

The FIR was registered on the basis of the allegations as alleged in the FIR which would contain blackmailing, threatening and forcibly committing rape with the prosecutrix. The allegations are against the petitioner and his wife. The FIR was registered and investigation

commenced.

Learned counsel for the petitioner submits that the FIR is nothing but an abuse of the process of the Court as the petitioner as well as the prosecutrix both are major and very well settled members of the society. He further submits that after the registration of this FIR No.260 dated 15.07.2019, the investigation was carried out and on conclusion of the investigation, cancellation was recommended on 2nd August, 2019. He has drawn the attention of this Court to the relevant findings contained in the challan which is annexed as Annexure P-7. He submits that aggrieved by the recommendation of the cancellation, the prosecutrix malafidely lodged an FIR on the same cause of action in Delhi i.e. FIR No.119 dated 04.03.2020. The petitioner approached the learned Sessions Judge, Delhi for grant of anticipatory bail. Learned Sessions Judge, Delhi after hearing, granted the anticipatory bail to the petitioner vide his order dated 13rd July, 2020. The same has been annexed with the petition as Annexure P-6. Learned counsel has vehemently contended that once the petitioner was granted anticipatory bail by the learned Sessions Judge, Delhi, the prosecutrix filed another affidavit dated 30th April, 2021 before the investigating authorities at Rohtak for carrying out further investigation in FIR No.260 dated 15th July, 2019 for which the cancellation was already recommended by the investigating agency on 2nd August, 2019. As a result, the petitioner was arrested on 4th July, 2021. He submits that on completion of the investigation, challan already stands filed on 20th August, 2021. Learned counsel has further submitted that the co-accused Anamika, who is wife of the petitioner, has already been granted regular bail by the learned Additional Sessions Judge, Rohtak vide his order dated 22nd July, 2021

(Annexure P-8). He further submits that both the petitioner and the prosecutrix have realised their faults and now have decided to put an end to their *inter se* dispute.

Ms. Sheenam Kamboj, Advocate for the complainant has candidly affirmed the contentions advanced by learned counsel for the petitioner.

Learned State counsel has opposed the submissions made by learned counsel for the petitioner. He submits that there are specific allegations of blackmailing and threatening the prosecutrix. He submits that the prosecutrix was allured by the petitioner and thereafter, serious offence was committed. He submits that the challan already stands filed and trial Court has taken cognizance of the offence.

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

There is no gainsaying that the allegations in the FIR pertain to a heinous offence. However, going into the overall facts and circumstances of the case, it is clear that the prosecutrix and the petitioner are major and already settled in their life. They have acknowledged the consensual relationship between them. The veracity of the allegations and the counter-allegations are to be established in the learned trial Court on the basis of the evidence produced before it and this Court would refrain from commenting upon the same. As candidly submitted by learned State counsel that the investigation already stands completed and the challan has been presented, the Court finds that learned counsel for the petitioner has succeeded in making out a case for grant of regular bail to the petitioner. 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.

10.11.2021
m. sharma

(RAJESH BHARDWAJ)
JUDGE

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