

IN THE HIGH COURT OF PUNJAB & HARYANA AT  
CHANDIGARH

(219)

CRM-M-14301-2022  
Date of Decision: 30.08.2022

Rakesh Kumar

--Petitioner

Versus

State of Haryana

--Respondent

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

Present:- Mr. Sarfraj Hussain, Advocate for the petitioner.

Mr. Neeraj Poswal, A.A.G., Haryana.

Mr. Sudhir Rana, Advocate for the complainant.

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**RAJESH BHARDWAJ.J (Oral)**

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.232 dated 6.9.2021 under sections 506, 509, 201, 34 IPC, section 12 of POCSO Act and section 67 of I.T. Act, registered at Police Station, Khol, district Rewari.

As per factual matrix, the FIR in question was lodged by the prosecutrix (name concealed), who is the cousin of the petitioner. The allegations made in the FIR are pertaining to making video viral through WhatsApp.

The investigation commenced and the petitioner was arrested on 6.1.2022. He approached learned Addl. Sessions Judge, Rewari for grant of bail, however, after hearing the parties, the same was declined vide order dated 22.3.2022. Aggrieved by the same petitioner has approached this court for grant of bail.

Learned counsel for the petitioner vehemently contends that the petitioner has been falsely implicated in the present case. He submits that false implication of the petitioner is writ large from the fact that the family of the petitioner and the prosecutrix are collateral and there was a civil dispute going on between both the families. He submits that father of the petitioner has already filed a suit for permanent injunction against the number of defendants including the father of the complainant/prosecutrix namely Suresh son of Jagmal. He submits that as a counter blast to the same the petitioner has been implicated by the prosecutrix. Counsel has drawn attention of this court to the similar type of complaints filed by the mother and sister of the prosecutrix. Counsel has also drawn attention of this court to the contents of the material sent by the petitioner to his friends wherein he has explained the high handedness committed by the complainant/prosecutrix with him. Counsel further submits that even if the allegations made in the FIR are taken to be true on their face value, the maximum punishment provided for the offence under section 67 of I.T Act is 3 years. He submits that petitioner has no criminal antecedents and he deserves to be granted the benefit of bail.

Learned counsel for the complainant has opposed the submissions made by counsel for petitioner. He submits that the I.P Address of the profile was found to be matched with that of the petitioner. He submits that the complicity of the petitioner has been duly established.

On the other hand, learned State counsel submits that there are specific allegations against the petitioner. He submits that investigation in the case is complete and the allegations against the petitioner were duly

substantiated, however, he submits that in all there are 20 prosecution witnesses out of which only one has been examined so far. He further submits that as per information provided to him petitioner is not involved in any other case.

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

Admittedly, petitioner is behind bars since 6.1.2022. The investigation in the case is complete and charges have been framed. The maximum punishment provided under section 67 of I.T. Act for the first conviction is up to 3 years and in the second conviction it can be extended up to 5 years. As per information provided by the State, petitioner has no criminal antecedents. In all there are 20 prosecution witnesses out of which only one has been examined so far. The veracity of the allegations levelled against the petitioner would be assessed by the Trial Court only upon conclusion of the trial. This court would refrain itself from commenting on the merits of the case, as the allegations and counter allegations would be assessed only after evaluation of the complete evidence to be led by both the sides before the Trial Court. The trial would take sufficiently long time in its conclusion.

In the totality of facts and circumstances and without making any observation on merits, present petition is allowed. Petitioner be enlarged on bail on his furnishing bail/surety bonds 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**

**30.08.2022**

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