

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(203)

CRM-M-14223-2020

Date of decision:- 04.05.2022

Gurnam Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Sandeep Arora, Advocate for the petitioner.

Mr. A.S.Gill, Senior DAG, Punjab.

...

SUVIR SEHGAL, J. (Oral)

On 07.10.2020, this Court passed the following order:-

“The petitioner-Gurnam Singh s/o Balbir Singh prays for grant of pre-arrest bail in a criminal case arising from FIR No.23 dated 8.2.2020 registered under Section 420, 376 IPC at Police Station, Bhogpur, District Jalandhar Rural.

The facts of the case have been noticed by the learned Additional Sessions Judge, Jalandhar in para 2 of his order dated 24.2.2020 which are extracted as under:-

“2. The brief facts of the prosecution case are that the present FIR was registered on the complaint bearing No.1040-Peshi dated 26.06.2019 moved by the complainant Taranveer Kaur daughter of late Shri Chuhar Singh, r/o village Jalalwal, P.S. Bhogpur, Tehsil & Distt. Jalandhar in continuation of earlier complaint bearing No.1785 Peshi dated 13.12.2018, wherein she alleged that the accused was running the business of Travel Agent at Ghumman Building, Upper Floor of Bank of Baroda, G.T. Road, Bhogpur, Tehsil & Distt. Jalandhar. The mother of the complainant is baptized (Amritdhari) lady of about 40 years, who due to poverty started working in the office of the accused as Sewadar in the month of April, 2015. In the first week of May 2015 when complainant first time went to the office of accused along with her mother, the accused asked the complainant to joint IELTS classes and as he will send her to Canada. She accordingly joined English Speaking Classes in

the office of the accused. The accused also told the complainant that in order to get the visa for Canada, he has to show a bank account of the complainant having sufficient money and got her to open a bank account No.50100103960549 in the nearby HDFC Bank at Bhogpur. Accused also asked the complainant to get a cheque book from the bank and after obtaining the Cheque book, the accused obtained the signatures of the complaint on the blank cheques saying that he will have to put money in the account of the complainant to get the visa for Canada and also under the pretext of security of putting his money in the account of complainant. The accused also prepared an agreement to sell the house of the widowed mother of the complaint under the pretext that if the complainant or her mother fails to return back the money put by the accused in the account of the complainant, then the accused can use the said agreement as the security. Accused also got prepared the passport of the complainant under the pretext that the complainant has to accompany him to Malaysia and Thailand to make a travel history so as to get the tourist visa for Canada easily. In the month of July, 2015 the accused took the complaint to Thailand and Malaysia for a short trip and forcibly committed rape with her and threatened her that if she told anyone in India, then he will get their house vacated from them and also get her family killed. In the month of August, 2015 the mother of the complainant became sick and the accused asked her mother to send the complaint for office work. In order to save the job of her mother, she started going to the office of the accused. The accused took her to Delhi in connection with the visa of the complainant for Canada and stayed in a Shiva Hotel about three times and committed rape with her under threats and forcibly every time from August 2015 to November, 2015. In the month of September, 2015 the mother of the complainant had gone out of house for some domestic work and the complainant also could not go to office. The accused made a phone call and asked the complainant as to why she did not come to office. On coming to know about the loneliness of the complainant in the house, the accused came to her house and by use of force and threats with dire consequences, he again committed rape with the complainant at her house and then, it became a routine in the months of September, October 2015. When the complainant asked the accused about her

foreign journey, the accused showed a fake visa affixed on the passport to take the complainant to Delhi very frequently so that he could fulfill his lust of sex with the complainant. The accused also used to take the complainant to Mumbai, Chandigarh and Jalandhar and used to make physical relations with the complainant under the threat of use of blank cheques and for allurement of sending her to Canada. After recovery, when her mother joined her job, then taking benefit of the situation, the accused started going to her house in order to make physical relations with her and many times forcibly committed sexual intercourse with her. The complainant was fed up of the accused and stopped going to the office of the accused and told her mother about everything, who filed a complaint against the accused on 15.02.2016 stating all the facts at P.S. Bhogpur, but the SHO of Police Station called the accused and asked the complainant to compromise the matter to save her honour in the society and on 16.02.2016, the police connived with the accused and instead of taking any action only took in writing from the accused that he will neither come to the house of complainant nor shall make any phone calls to her. After that, accused again came to her house and threatened her that if she did not join the office and did not submit herself to his lust then he shall get their house vacated from them on the basis of the agreement to sell in his possession and also shall file different complaints against her at different places and through different persons. He also threatened that he has also obtained the visa of the complainant for Canada and shall not hand over the passport to her. Due to threats, the complainant again joined the office of the accused in order to get the documents of her house, blank cheques, school certificates and passport from the accused. The accused again started coming to her house in the absence of her mother and used to forcibly commit sexual intercourse with her. When the accused had made her life as a hell by using her physically against her wishes, she again made a complaint to P.S. Kartarpur, but this time only to get the documents from the accused because she was advised by her mother that not to say anything about the physical relations in order to save her future life in the society. The accused was called to P.S. Kartarpur on 29.03.2016, where the accused handed over the original agreement to sell dated 19.11.2015 forcibly entered into by the accused for the sale of the house

and also gave in writing that he has left with no accounts from the complainant. When the accused did not return the fifth class certificate, the cheque book and the original passport, the complainant approached the SHO of P.S. Kartarpur for documents and the police again called the accused on 26.04.2016, where police handed over a written promise from the accused that he shall hand over passport and other documents within a week, but nothing was stated in this written promise regarding the cheque book. He is not handing over the passport because he has shown the fake Canada visa on her passport. In the month of September, 2016 the accused sent a message through a stranger that he had filed a complaint against her at Pathankot through accused Harjinder Singh by forging a cheque No.000006 dated 2.5.2016 for Rs.8,00,000/- from the cheque book of the complainant lying with him and also filed other cases against her and her mother at Jalandhar and shall also file more cases against her and her family at other places by misusing the cheques. If the complainant did not fulfill his desire for sex, then he will make the life of complainant miserable and also get her younger brother and her mother killed. Accordingly, she made a written complaint to SSP Jalandhar on 30.09.2016 which was entered at number 1384-PTOO dated 30.09.2016. She along with her mother were called at Police Station by the police, but each time she was made to wait outside the Police Station, but no action was taken on her complaint till date. The complainant and her family did not intentionally stated anything regarding the rape in Police Station Kartarpur because her family want to marry her and she was getting the matrimonial proposals and her family did not want to spoil her future life. The accused is so daring and habitual criminal and he himself gave the complainant a list of the cases registered against him saying that nothing has been done against him in these cases and he has managed everything with the month and can manage the complaint filed against him by her. The complainant also came to know that prior to this, the accused under the garb showing himself a religion person had kidnapped a girl from village Ibrahimwal, Tehsil Bholath, Distt. Kapurthala and another girl from Village Giganwal, Tehsil and Distt. Jalandhar about 15 years ago. Now the complainant has got married on 08.10.2016 to Kuljit Singh s/o Iqbal Singh and before marriage, she herself told everything to her

husband who further gave support to file complaint against the accused, so that no person in future be made a victim by the accused or any other person. Earlier accused Harjinder Singh was telling the complainant that he has also been cheated by the accused Gurnam Singh and he has got registered a case against the accused Gurnam Singh vide FIR No.0026 dated 8.4.2017 in P.S. Bhogpur, u/s 420/120 IPC and accused Gurnam Singh was arrested in the said case. He further promised that he shall withdraw the complaint filed by him on the basis of a forged and fabricated cheque given to him by the accused Gurnam Singh when he was having good relations with Gurnam Singh, but now accused Harjinder Singh is also trying to blackmail her and refused to withdraw the complaint. As the police did not take any action against the accused Gurnam Singh, therefore, he again started blackmailing her and has filed a false complaint against her by forging and fabricating another cheque No.10 dated 06.09.2018 for 4,00,000/- of HDFC Bank, Bhogpur, Distt. ₹ Jalandhar from the cheque book which was in his possession. The accused earlier issued a legal notice dated 26.09.2018 and later filed a complaint against her for which she has received summons from the court of JMIC, Jalandhar. Both the accused had made her life miserable because the police neither took any action against the accused Gurnam Singh for committing rape with her, nor took any action for forging and fabricating the cheques from her cheque book. On the basis of said application and after conducting of due investigation, the case was registered against the accused including the present accused/applicant.”

Learned counsel for the petitioner contends that the Deputy Superintendent of Police conducted inquiry into the matter and vide report dated 16.4.2019, the petitioner was found innocent. He further contends that the prosecutrix has previously also lodged a complaint against the petitioner which was later on withdrawn on 25.4.2016 after receiving certain items. He further contends that in fact prosecutrix's mother was working with the petitioner and she had taken certain advance amount for repayment whereof the complainant had issued cheques which on presentation were dishonoured. The petitioner had filed a complaint under Section 138 of the Negotiable Instruments Act, 1881, against the prosecutrix.

On the other hand, Sh. Thind, learned State counsel has submitted that the petitioner is accused of having committed a heinous crime.

Adjourned to 19.11.2020.

Keeping in view the aforesaid facts, it is considered appropriate that let the petitioner join investigation.

In the meantime, in the event of arrest, the petitioner shall be released on interim bail subject to furnishing personal bonds and surety to the satisfaction of Arresting/Investigating Officer. However, the petitioner shall join the investigation as and when called upon to do so and shall abide by the conditions as provided under Section 438(2) Cr.P.C.”

Counsel for the petitioner submits that in so far as the so called compromise, Annexure P-6, is concerned, the same was never executed by the petitioner and was written on a blank paper, which he was forced to sign at the Police Station. Still further, he submits that the petitioner has joined the investigation in pursuance to the above reproduced order.

Upon instructions received from ASI, Iqbal Singh, State counsel affirms that the petitioner has joined the investigation. He further submits that the petitioner has submitted an affidavit to the effect that he does not possess the cheque book and the passport of the complainant. As per his instructions, the petitioner is no longer required for custodial interrogation as the challan stands presented.

In view of the above, order dated 07.10.2020 is made absolute, subject to compliance of conditions laid down in Section 438 (2) of the Code of Criminal Procedure.

Petition is allowed.

(SUVIR SEHGAL)
JUDGE

04.05.2022
Kamal

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No