

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

CRM-M-21547-2021

Date of decision : 01.04.2022

Gurpiar Singh

.... Petitioner

Versus

State of Punjab

.... Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. P.K.S. Phoolka, Advocate
for the petitioner.

Mr. Rakeshinder Singh Sidhu, AAG, Punjab.

Mr. Prince Goyal, Advocate
for the complainant.

RAJESH BHARDWAJ, J. (ORAL)

At the outset, learned State counsel, on instructions from ASI Navyugdeep Singh, has submitted that after the registration of this FIR, Section 201 of IPC was also added in the FIR vide DDR No.16 dated 09.11.2020. As the addition of the same does not appear to have been brought to the notice of learned Additional Sessions Judge, Bathinda at the time of consideration of the bail of the petitioner, the Court finds it appropriate that on the submissions made by the learned State counsel, the present FIR be read along with Section 201 IPC which is ordered to be added in the headnote of the petition.

Petitioner has approached this Court for grant of regular bail in a case bearing FIR No.0215 dated 29.10.2020, under Sections 376, 384, 354-C, 506 & Section 201 (newly added) of the Indian Penal Code, 1860, registered at Police Station Nathana, District Bathinda.

As per the factual matrix of the case, FIR was lodged by the prosecutrix herself. The sum and substance of the allegations made in the FIR

that the prosecutrix is 26 years of age and a married woman, the accused named Gurpiar Singh used to sit on the motorcycle in front of her house and thus, he came in contact with the prosecutrix. Thereafter, a relationship started between them. Subsequently, on one day, when the prosecutrix was alone at home, the petitioner established physical relations with her without her consent. Thereafter, he called her to Bathinda, though, initially she was reluctant but thereafter, she went to Bathinda with the petitioner who took her to one hotel where again he established physical relations with her. It was alleged that the petitioner took some pictures of the prosecutrix on his mobile and on the basis of the same, he started blackmailing her and number of times established physical relations with her. He even offered to give her intoxicant strips to be kept at her home so that, her husband can be falsely implicated in a drug case. She alleged that on the basis of the relationship with the petitioner, he started even demanding Rs.50,000/- from her. Their relationship remained for last about 2 ½ months. Finally, she disclosed the same to her husband and the present FIR was lodged with a request to take the legal action against the petitioner. On the commencement of investigation, petitioner was arrested on 06.11.2020. Petitioner approached the Court of learned Additional Sessions Judge, Bathinda, who after hearing counsel for the parties, declined the same vide order dated 23.02.2021. Aggrieved by the same, petitioner has approached this Court for grant of regular bail by way of the present petition.

Learned counsel for the petitioner has vehemently contended that from the allegations made in the FIR, it is apparent that the petitioner and the prosecutrix are of the age of majority and there cannot be any coercion or threat as alleged in the petition. He has submitted that the prosecutrix is woman of age of majority and the alleged occurrence took place at her matrimonial home and thereafter in the hotel. He further contends that the

prosecutrix had been travelling in the public transport and by no stretch of imagination, it can be inferred that the relationship between the petitioner and the prosecutrix was not consensual. He submits that the petitioner has been falsely implicated in this case under the pressure of family members of the prosecutrix. He further submits that petitioner is behind the bars since 06.11.2020. Now the material witnesses i.e. prosecutrix and her husband have already been examined. Looking from that perspective, there cannot be any projected apprehension on the part of the petitioner regarding tampering with the evidence of the prosecutrix. He submits that the petitioner deserves to be enlarged on bail.

Learned counsel for the complainant has opposed the submissions made by counsel for the petitioner. He has submitted that there are specific allegations against the petitioner of establishing physical relations with the prosecutrix by blackmailing her on the strength of the pictures taken by him in mobile. He further submits that the relevant evidence has been destroyed by the petitioner and hence, there is addition of offence under Section 201 IPC in the original FIR. He submits that in the facts and circumstances, no case for the bail is made out.

Learned State counsel has submitted that the prosecutrix has levelled specific allegations against the petitioner. He further submits that the prosecutrix has been examined before the trial Court and she has duly supported the case of the prosecution. However, he candidly acknowledges that both the petitioner and the prosecutrix are of the age of majority. He has submitted that in all, there are 18 prosecution witnesses, out of which, 03 witnesses have been examined including the prosecutrix and the husband. He also submits that as per the investigation so far, there is no other case against the petitioner filed or pending except the present case.

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

Evidently, both the prosecutrix and the petitioner are of the age of majority. The petitioner and the prosecutrix were moving from one place to another by public transport and they remained at the different public places. It is also evident that the prosecutrix had been travelling from matrimonial home by public transports. The Court at this stage cannot go into the authenticity of the allegations as the same lies within the domain of the trial Court to be inferred on the basis of the evidence produced before it.

The trial of the case will take sufficient long time and no useful purpose will be served by keeping the petitioner in custody for such a long time. However, confining to the prayer made for the grant of bail, this Court is convinced that the counsel for the petitioner succeeds 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.

01.04.2022
m. sharma

(RAJESH BHARDWAJ)
JUDGE

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