

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

212

CRM-M-24130 of 2022

Date of decision :02.06.2022

Ashok Kumar

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. P.S. Khurana, Advocate for the petitioner.

Mr.P.S.Walia, AAG, Punjab, for the respondent-State.

SUVIR SEHGAL, J.

This is the second petition filed under Section 439 of the Code of Criminal Procedure, 1973, (for short - 'the Code') seeking grant of bail pending trial in case FIR No.188 dated 07.07.2021 registered for offences under Sections 376 and 506 of IPC at Police Station Division No.2, Ludhiana, Annexure P-1.

Version of the prosecution is that FIR has been registered on the basis of statement of a 32 year old married lady (hereinafter referred to as - "the prosecutrix") on the allegation that she was having an affair with Ashok, present petitioner, and they were in contact with each other even after her marriage. Ashok had saved some intimate photographs and videos in his mobile and on the threat to make them viral and show them to her husband, he sexually exploited her at Ludhiana. On coming to Delhi, she lodged an FIR with the request that action be taken against him.

Counsel for the petitioner contends that the relationship between the petitioner and the prosecutrix, which continued for the last more than a decade, was consensual and a dispute arose between them when she started pressurizing the petitioner, who is a married man to divorce his wife and marry

her. He submits that she has executed an affidavit dated 26.02.2022, Annexure P-2, wherein she has deposed that the misunderstanding between them has been removed with the intervention of the respectables and she does not have any objection in case the petitioner is ordered to be released on bail.

Opposing the petition, learned State counsel upon instructions, has submitted that the petitioner has supported the allegations levelled in the FIR, which was initially lodged as zero FIR at Delhi, with her statement under Section 164 Cr.P.C. as well as her testimony in the Court. As per his instructions, all the prosecution witnesses have been examined and the case is now at the stage of defence witnesses.

I have considered the submissions made by counsel for the parties.

The petitioner has been specifically named in the FIR, which is duly supported by the prosecutrix in her testimony before the Court. The petitioner is alleged to have sexually assaulted her under the threat of misusing her photographs and videos. The execution of the affidavit, Annexure P-2, by the prosecutrix, moreso after her deposition has been recorded in Court, is highly suspicious. Rather it is an indicator of the fact that despite being behind bars, the petitioner is in a position to influence her and exert pressure on her. It also deserves to be noticed that in the last few months, the petitioner has filed spate of petitions before this Court. After his first petition (CRM-M-37491-2021) seeking grant of regular bail was declined by this Court on 31.01.2022, he filed a petition (CRM-M-10458-2022) seeking quashing on the basis of the affidavit, Annexure P-2, which was withdrawn on 10.03.2022 and a petition (CRM-M-16050-2022) seeking quashing of the FIR, Annexure P-1 on merits, which again was withdrawn on 21.04.2022.

Considering the nature of allegations against the petitioner of sexual assault on a lady which continued for years together, gravity of offence allegedly committed by him, the fact that the prosecutrix has supported the allegations when she stepped into the witnesses box and that the trial is at an advanced stage, this Court is not inclined to grant the concession of regular bail to the petitioner.

Petition being bereft of any merit, is ordered to be dismissed.

It is clarified that nothing said hereinabove shall be construed to be an expression of opinion on the merits of the case.

02.06.2022
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(SUVIR SEHGAL)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No