

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(218)

CRM-M-44724-2022
Date of Decision: 30.09.2022

Dalip Singh

--Petitioner

Versus

State of Punjab

--Respondent

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

Present:- Mr. Viren Sibal, Legal Aid Counsel,
for the petitioner.

Mr. Karunesh Kaushal, A.A.G., Punjab.

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.77 dated 25.4.2020 under sections 328, 342, 354-C, 376, 506 IPC, registered at Police Station, Sadar, District Sangrur.

As per factual matrix, a complaint was lodged by the prosecutrix herself wherein it was alleged that she was mother of 4 children. She did not have cordial relations with her husband and on account of which she had taken the franchise of Shemrock Little Star School and she was running the same of her own. She came in contact with one Dalip @ Hardeep i.e. the present petitioner through her Peon Pooja. Both of them developed friendly relations and thereafter Dalip took the prosecutrix and her daughter to his village Upli, District Sangrur, where he made forcible physical relations with her and also made her obscene videos as well. He started threatening her that in case she disclosed anything about the same he would viral her obscene videos and defame her. He also threatened to kill

her children. The accused/petitioner confined her for about 4 ½ months in his home and he forcibly intoxicated her. One day she dialed number 100 and thereafter police reached there. A request was made to take legal action against the culprit.

On the basis of the complaint zero FIR was registered at Police Station, Chandi Mandir and the same was transferred to District Sangrur and investigation commenced. During investigation, petitioner was arrested on 12.9.2020. He approached the court of learned Sessions Judge, Sangrur for grant of bail, however, after hearing the parties, the same was declined vide order dated 9.7.2021. Aggrieved by the same petitioner has approached this court for grant of bail.

Learned counsel for the petitioner, who is appearing through Legal Aid has vehemently contended that the petitioner has been falsely implicated in the present case. He submits that the prosecutrix is a married woman and mother of 4 children. He submits that both petitioner and the prosecutrix are of the age of majority and the prosecutrix has no cordial relations with her husband on account of the same she was living separately from her husband. It is submitted that prosecutrix has herself admitted that she had been travelling with the petitioner along with her grown-up daughter to his house in his village and had been staying there for days together. He submits that by no stretch of imagination it can be inferred that a woman along with her grown-up daughter can be confined for days together by the petitioner without her consent. Counsel submits that the prosecutrix and her daughter have been examined by the learned Trial Court as PW-1 and PW-2 respectively. Counsel has drawn the

attention of this court to the deposition of the prosecutrix, wherein she deposed that she came with the petitioner on his motorcycle, however, her daughter came with the mother of the petitioner in a bus. She further deposed that she stayed with the petitioner and maintained physical relations with him. Counsel has also drawn attention of this court to the deposition of the daughter of the prosecutrix, wherein she deposed that in the month of June, 2019 she along with her mother went to village Upli in a bus with the petitioner without the permission of her father. She deposed that they stayed there for one week. She used to take meals at the house of the accused/petitioner during her stay and used to play outside their house. She further deposed that they stayed at the house of petitioner as family members and no fight took place between her mother and accused during that time. Counsel submits that prosecutrix stayed with the petitioner for weeks together. She used to travel by public conveyance, however, there was no resistance on her part. It is submitted that relationship between the prosecutrix and petitioner was consensual and thus no offence under section 376 IPC is made out. It is further submitted that there are allegations of making obscene videos of the prosecutrix but no charge under the I.T Act has been framed against the petitioner which falsify the allegations made in the FIR. He submits that petitioner has no criminal antecedents and hence he deserves to be granted the benefit of bail.

On the other hand, learned State counsel submits that there are specific allegations regarding forcible sexual exploitation against the petitioner. He submits that prosecutrix has levelled allegations pertaining to illegal confinement by the petitioner. He further submits that both

prosecutrix and her daughter have already been examined by the learned Trial Court and they have duly supported the case of prosecution. It is submitted that in all there are 14 prosecution witnesses out of which 4 have been examined including the prosecutrix and her daughter. He submits that as per information provided to him petitioner has no criminal antecedents.

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

Admittedly, both petitioner and prosecutrix are of the age of majority. The prosecutrix is a married woman and mother of 4 children. She had been travelling with the petitioner to his home in village Upli, District Sangrur and stayed there for weeks together. Though there were allegations of blackmailing the prosecutrix on the strength of the obscene videos made by the petitioner, however, neither there is any offence under the I.T. Act nor any charge has been framed for the same. Prosecutrix and the petitioner were staying together in public places and were travelling by public conveyance. Material witnesses already stand examined and hence possibility of the petitioner influencing them no more survives. The petitioner is being defended by the Legal Aid Counsel. As per information provided by learned State counsel, petitioner has no criminal antecedents. 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 the 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

30.09.2022

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