

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

CRM-M-51208-2021

Date of decision : 21.02.2022

Vikrant Bhati

.... Petitioner

Versus

State of Haryana

.... Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

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

Mr. Vishal Kashyap, DAG, Haryana.

RAJESH BHARDWAJ, J. (ORAL)

Matter has been taken up through video conferencing via Webex facility in the light of the Pandemic Covid-19 situation and as per instructions.

Prayer in the present petition is for grant of regular bail to the petitioner in case FIR No.154 dated 16.08.2021, registered under Sections 376(2)(n), 506, 420, 406, 201 of the Indian Penal Code, at Police Station Bajghera, District Gurugram.

The present FIR was lodged by the victim (name concealed). The sum and substance of the FIR as alleged by the prosecutrix is that she came in contact with the petitioner through Instagram. They started liking each other. Thereafter, they frequently met on different occasions. The petitioner knowing that the prosecutrix is emotionally involved with him, started exploiting her and made promise that he would marry her. As a

result, they established physical relationship on number of occasions. The petitioner also demanded money from the prosecutrix and she gave her debit card to him. The petitioner used the amount of Rs.8,99,298/- from the debit card of the prosecutrix and took her obscene videos in his mobile. On asking by the prosecutrix, he refused to marry her. The prosecutrix was taken by surprise. Having no other alternative, she approached the police and lodged the present FIR and made a request for taking the legal action against the petitioner who had emotionally and sexually exploited her. Thereafter, investigating agency swung into action and the petitioner was arrested on 14.09.2021. He approached the learned Additional Sessions Judge (Fast Track Court), Gurugram for grant of bail, who after hearing counsel for the parties, declined the same vide order dated 15.11.2021. Aggrieved by the same, petitioner approached this Court by way of filing the present petition.

Learned counsel for the petitioner vehemently submits that petitioner has been falsely implicated in this case. He submits that it is evident from the facts of the case that petitioner and the prosecutrix both are of the age of majority. The relationship between both of them has been duly admitted and the same was consensual. As per bare reading of the allegations in the FIR, the physical relationship between the petitioner and the prosecutrix took place allegedly on the promise of marriage extended by the petitioner. He submits that the allegations regarding misusing of mobile, threatening the prosecutrix and drawing the money from her debit card are totally false and frivolous. On the other hand, in the facts and circumstances, offence under Section 376 IPC is not made out as physical

relationship was totally consensual and there was no coercion on the part of the petitioner. He has relied upon the judgment titled as Pramod Suryabhan Pawar Vs. The State of Maharashtra and others (2019) 9 SCC 608. He submits that false implication of the petitioner is strengthened from the very fact that the prosecutrix has been examined by the trial court and she has not supported the case of the prosecution. He has sent the copy of her deposition through whatsapp group wherein, the prosecutrix has denied all the allegations made in the FIR. She specifically deposed before the Court that accused neither cheated her nor transferred amount from her account to his account. As a result, she was declared hostile on the request of learned Public Prosecutor. Learned counsel submits that petitioner is languishing in jail since 14.09.2021 and in the facts and circumstances, his further custody is totally unwarranted.

Learned State counsel, on instructions from ASI Reena, submits that there are specific allegations against the petitioner who has exploited the prosecutrix emotionally and sexually. However, he candidly acknowledged that the victim is of the age of majority and she has not supported the case of the prosecution. He further submits that out of 16 prosecution witnesses, 05 witnesses have been examined.

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

Petitioner is behind the bars since 14.09.2021. Both the petitioner and the prosecutrix are of the age of majority and relationship between both of them was consensual. The prosecutrix was examined by the trial Court and from her deposition before the trial Court, it is evident that she has disowned all her previous allegations made in the FIR and thus, has

been declared hostile. Without commenting anything on the merits of the case at this stage, when out of 16 prosecution witnesses, 05 witnesses already stand examined and hence, the trial would take sufficient long time for its conclusion, this Court finds that learned counsel for the petitioner has succeeded 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.

21.02.2022
m. sharma

(RAJESH BHARDWAJ)
JUDGE

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