

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

(210)

CRM-M-59331-2022
DATE OF DECISION:- 23.12.2022

HIMANSHU @ HIMANSHU RAHEJA**...PETITIONER****VERSUS****STATE OF HARYANA****...RESPONDENT****CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL**

Present: Mr. Priyanshu Kamra, Advocate
for the petitioner.

Ms. Ankita Ahuja, AAG, Haryana
for the State-respondent.

SUVIR SEHGAL, J. (ORAL)

By way of the present petition filed under Section 439 of the Code of Criminal Procedure, 1973 (for short “the Code”), petitioner has approached this Court seeking grant of post-arrest bail in FIR No.0041 dated 31.05.2022, Annexure P-1, lodged at Women Police Station, District Fatehabad for offences under Sections 376(2)(n), 376(2)(f), 384, 450, 464 and 474 of the Indian Penal Code, 1860 and Section 66 E, 67 A and 66 C of Information Technology Act, 2000.

Case of the prosecution is that FIR, Annexure P-1, has been registered on the statement of a twenty four year old married lady (hereinafter referred to as “the prosecutrix”) stating that she had a rift with her husband and was staying at her paternal home. Himanshu Raheja, present petitioner, who is a relative, forcibly had physical relations with her at her in-laws village and clicked objectionable

photographs. He exploited her repeatedly on the threat of making the photographs viral. He uploaded her objectionable photographs on the internet on 18.05.2022 by creating a fake ID on Facebook in her husband's name, which was deleted by Facebook and he was barred from uploading more pictures. He is again forcing her to develop physical relationship under the threat of misusing the photographs.

Counsel for the petitioner has argued that the petitioner has been falsely implicated and the prosecutrix has made a gross misuse of the gender sensitive laws. He urges that no specific place has been mentioned in the story, projected by her, which seems highly improbable. He submits that there is a delay of more than one year in lodging the complaint and the relationship between the parties was consensual.

Petition has been opposed by the State counsel by making a reference to the Medical Examination Report, statement of the prosecutrix recorded under Section 164 of the Code as well as her deposition, Annexures P-2 to P-4, respectively.

I have heard counsel for the parties and considered the submissions made by them.

The allegations against the petitioner are specific and he has been named in the FIR. The prosecutrix has supported the allegations in her statement recorded before the Magistrate as well as in her testimony. She has been consistent in her stand despite cross-examination by the counsel for the accused. Petitioner is accused of taking advantage of a hapless lady, who had estranged relations with her husband. Specific instance of uploading her photographs by creating a fake ID has been mentioned in the FIR. Arguments addressed by the counsel for the petitioner need not be examined at this stage. Delay, if any, is not fatal to

the case of the prosecution as the prosecutrix approached the custodian of law the moment her private pictures were made public by the petitioner. Courts have to be more sensitive while dealing with cases of sexual assault on women.

Keeping in view the totality of facts and circumstances, nature of allegations levelled against the accused and the gravity of offence committed by him, this Court is not inclined to release him on bail during the pendency of the trial.

Finding no merit in the petition, it is hereby dismissed.

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

23.12.2022
Kamal

(SUVIR SEHGAL)
JUDGE

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