

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

217

CRM-M-12180-2023

Date of Decision: 16.03.2023

Sahil Singh @ Harman

...Petitioner

Versus

STATE OF U.T., CHANDIGARH

...Respondent

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Mr. Kamal Narula, Advocate for the petitioner

Mr. J.S. Toor, Addl. P.P., U.T., Chandigarh

JAGMOHAN BANSAL, J. (ORAL)

1. The petitioner through instant petition under Section 439 Code of Criminal Procedure, 1973 (for short 'Cr.P.C.') is seeking regular bail in FIR No.71 dated 18.04.2022 under Sections 354-D, 354 (wrongly mentioned in the head note as 454), 384, 506, 186 & 34 of Indian Penal Code, 1860 (for short 'IPC') (Section 67 of Information Technology Act, 2000 added later on) registered at Police Station Industrial Area, U.T., Chandigarh.

2. The case of the prosecution is that prosecutrix moved a compliant to police alleging that she came in contact with Sahil Singh alias Harman and developed friendly relations with him. He assured her that he has links with Punjabi Film Industry and would get some work for her in Punjabi Videos. He had taken her videos in the mobile phone. She came to know that he consumes alcohol and drugs, thus, she started

maintaining distance from her. He has been threatening her with dire consequence. On 10.02.2022, he forcibly stopped her and inappropriately touched her without her consent when she had gone to market in Sector 30, Chandigarh. He tried to push her in the car but she managed to escape. On 30.03.2022, she along with her friend was going to market, he along with his one friend arrived in a car and blocked their way. They came out of car and forcibly held hand of the complainant and asked her to sit in car. On their refusal, he slapped her.

3. Learned counsel for the petitioner, *inter alia* contends that petitioner and prosecutrix, as admitted by her, were good friends. They had prepared many *Tik Tok* and *Instagram* videos. The relations between the parties soured and present FIR came to be registered against him. The petitioner has not extorted any money from the complainant. There is no evidence even in the challan disclosing extortion of money on the part of the petitioner. The petitioner is not involved in any other offence except FIR No.72 dated 18.04.2022 between the same parties. He is in custody since 07.09.2022. The petitioner has been wrongly implicated in the commission of alleged offence. The petitioner is permanent resident of District Ferozepur. The petitioner has deep roots in the society. There is no possibility of flee from justice.

4. Custody certificate dated 16.03.2023 is taken on record. Registry is directed to tag the same at appropriate place.

5. Learned State Counsel submits that police report has already been filed and charges are yet to be framed. FSL report is still awaited. He further submits that there are 16 witnesses.

6. In the case in hand, admittedly, there was friendly relation between the petitioner & prosecutrix and they have prepared multiple short videos. There is no *prima facie* evidence disclosing commission of offence punishable under Section 384 IPC. The maximum sentence prescribed under different sections of IPC which have been invoked against the petitioner is 5 years and petitioner is behind the bars for last more than 6 months. The trial is at nascent stage which would certainly take quite long time especially when FSL report is still awaited. In such circumstances, it would not be just and fair to keep the petitioner in custody. As prosecution has right to arrest, investigate the matter and restrain an accused from manipulating or winning over witnesses, similarly accused in view of Article 21 of the Constitution of India has right to defend himself and put forth his stand which cannot be possible while in custody. The prosecution has not led any convincing/plausible documentary or oral evidence indicating possibility of petitioner being flee from justice or tampering the evidences or winning over/threatening the witnesses.

7. In view of afore-stated facts and circumstances, this Court is of the considered opinion that present petition deserves to allowed and accordingly allowed. The petitioner is ordered to be released on bail

subject to conditions as may be imposed by Trial Court/Illaqa/Duty Magistrate concerned.

8. Nothing observed hereinabove shall be construed as expression of opinion of this Court on merits of the case and Trial Court shall proceed without being prejudiced by observations of this Court.

(JAGMOHAN BANSAL)
JUDGE

16.03.2023
Mohit Kumar

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>