IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

Sr. No.: 210

Criminal Miscellaneous No.M-13610 of 2023

Date of Decision: *April 11, 2023*

Arun Kumar alias Arun Kathia alias Tony

..... PETITIONER(S)

VERSUS

State of Punjab

..... RESPONDENT(S)

. . .

CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA

. . .

PRESENT: - Mr. Yajur Sharma, Advocate and Mr. Akun Sheemar, Advocate for the petitioner.

Mr. Kunal Vinayak, AAG, Punjab.

Mr. Jagpal Singh, Advocate for the complainant.

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Tribhuvan Dahiya, J (Oral)

This is a petition for grant of regular bail in case FIR No.96 dated 11.09.2022, under Sections 376, 506 of IPC, to which Section 201 of IPC has been added later on, registered at Police Station Ramdass, District Amritsar (Rural), Punjab.

2. As per allegations mentioned in the FIR, lodged by the complainant/prosecutrix herself, aged about thirty one years, she was residing with her maternal aunt (the petitioner's mother). About two years ago on 06.09.2020, the petitioner allegedly made her consume some intoxicant and established physical relations with her, and also clicked her nude photographs. Thereafter, under the threat to make the photographs viral, he continued blackmailing her and making physical relations against her wishes. He refused to delete the photographs and threatened to kill her in case she solemnized marriage somewhere else. On 30.08.2022, when she was alone at home, the petitioner forcibly tried to commit rape upon her.

3. Learned counsel for the petitioner has contended that the FIR has been lodged after about two years of the first alleged incident of

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rape. The complainant is a mature lady, and has been residing in the same house where the petitioner also resides. Therefore, the allegations levelled cannot be believed, that too, when made after more than two years. The petitioner is in custody since 12.09.2022, and the complainant has already been examined before the trial Court, wherein she has admitted that from 06.09.2020 to 30.08.2022, she along with the petitioner/accused and his family was residing in the same house without any objection.

4. Learned State counsel assisted by learned counsel for the complainant, on instructions from ASI Nirmal Singh, opposes the grant of bail on the ground that trial is already going on and the remaining ten witnesses will soon be examined. He does not dispute that the petitioner is in custody since 12.09.2022 and no other case is pending against him.

5. Submissions made by learned counsel for the parties have been considered. Trial of the case is going on and is not likely to conclude in near future as ten prosecution witnesses still remain to be examined. The material witness, i.e., the complainant already stands examined, and the petitioner is in custody since 12.09.2022. He has no criminal antecedents. Therefore, no useful purpose will be served by confining him to custody any longer.

6. Accordingly, the petition is allowed and the petitioner is ordered to be released on bail to the satisfaction of trial Court/Duty Magistrate concerned.

(Tribhuvan Dahiya)
Judge

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Whether Speaking/ Reasoned: Yes/ No
Whether Reportable: Yes/ No

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