

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

Sr. No.: 213

Criminal Miscellaneous No.M-28104 of 2022

Date of Decision: February 22, 2023

Subhash

..... PETITIONER(S)

VERSUS

State of Haryana

..... RESPONDENT(S)

. . .

CORAM: **HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA**

. . .

PRESENT: - Mr. Abhinav Sood, Advocate for the petitioner.

Ms. Mahima Yashpal, DAG, Haryana.

. . .

Tribhuvan Dahiya, J (Oral)

This is a petition under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case FIR No.39 dated 22.02.2022, under Sections 67, 67-A of Information Technology Act, 2000, 376(2)(n) & 506 IPC, registered at Police Station Women, NIT, Faridabad, District Faridabad.

2. As per allegations in the FIR lodged by the prosecutrix aged 47 years, she came in contact with the petitioner in December 2016 and the petitioner kept on making physical relations with her till December 2021. He had been threatening the complainant to make her obscene photographs viral, infact, on 01.12.2021, the said photographs were sent to one of her friends on her WhatsApp, that led to lodging of the FIR in question.

3. Learned counsel for the petitioner contends that the allegations taken on its face value establish that the relations between the petitioner and complainant were consensual and continued over a period of about five years without there being any complaint by her. He further

contends that the petitioner is in custody since 26.02.2022 and the complainant as well as her friend already stand examined.

3. Learned State counsel, on instructions from L/I Maya, opposes the grant of bail on the ground that trial is going on and three of twenty witnesses have already been examined. She further submits that incriminating videos/photographs of the complainant have been found in the petitioner's mobile phone which he actually circulated through the complainant's phone.

4. Keeping in view the facts aforesaid, it is apparent that trial of the case will take some time to conclude as seventeen witnesses still remain to be examined, and material witnesses, the prosecutrix as well as her friend, have already been examined. The recovery of videos from the petitioner's mobile phone in itself will not constitute the alleged offences against him. Besides, its evidentiary value is still to be tested during trial. Therefore, no purpose will be served by confining the petitioner to custody during trial.

5. Accordingly, the petition is allowed and the petitioner is ordered to be released on bail on furnishing of requisite bonds/sureties to the satisfaction of trial Court/Duty Magistrate concerned.

6. Any observation made hereinabove shall not be construed as an expression of opinion on merits of the case.

(Tribhuvan Dahiya)
Judge

February 22, 2023
payal

Whether Speaking/ Reasoned:
Whether Reportable:

Yes/ No
Yes/ No