

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
207 CRM-M-29903-2023 (O&M)
Date of decision: 31.08.2023

Sonu ...Petitioner(s)
Vs.
State of Haryana ...Respondent(s)

CORAM: HON’BLE MS. JUSTICE NIDHI GUPTA

Present: - Mr. Mohd. Arshad, Advocate
for the petitioner.

Mr. Arjun Lakhanpal, Addl. AG Haryana.

Mr. Sachin Mittal, Advocate
for the complainant.

NIDHI GUPTA, J.

Prayer in the present petition is for grant of anticipatory bail to the petitioner in a case FIR No.138 dated 19.04.2023 registered under Sections 354-D, 384, 506 and 34 IPC at Police Station Firozpur Jhirka, District Nuh, Haryana.

2. On 12.07.2023, this Court had passed the following order:-

“Mr. Mohammad Arshad, Advocate has put in appearance on behalf of petitioner and filed his Power of Attorney, containing NOC from the previous counsel, which is taken on record.

Prayer in this petition filed under Section 438 Cr.P.C. is for grant of anticipatory bail to the petitioner in case FIR No. 138 dated 19.4.2023, under Sections 354-D, 384, 506, 34 IPC, 1860, registered at Police Station Ferozpur Jhirka, District Nuh.

Learned counsel for the petitioner submits that neither the petitioner has been named in the FIR nor any allegations by name have been leveled against him. As per the FIR, the sole accused named in the FIR

is Deepak Goyal and the name of the petitioner has been instituted in the matter because of the statement of the prosecutrix, recorded under Section 164 Cr.P.C. Learned counsel further submits that even the prosecutrix, in her statement under Section 164 Cr.P.C. has named Deepak Goyal and Kartik. He further submits that the petitioner's name is Sonu not Kartik, which is not at all mentioned in the FIR as well as in the statement of the prosecutrix recorded under Section 164 Cr.P.C. Learned counsel further submits that the issue was actually between the prosecutrix and said Deepak Goyal because they were in relationship and the petitioner has nothing to do in the matter.

In compliance of the order dated 06.06.2023, learned counsel for the State has filed the reply/status report dated 11.7.2023 by way of affidavit of Om Parkash, HPS, Deputy Superintendent of Police, Crime, Nuh, which is taken on record. Copy thereof is supplied to the counsel opposite. In the reply, learned State counsel has taken the specific plea that as per the complainant, the petitioner Sonu, and accused Kartik are the same person not different, who has effectively participated in the crime and he, in conspiracy with co-accused Deepak Goyal, used to blackmail the complainant to get money. Learned State counsel submits that the custodial interrogation of the petitioner is utmostly needed because the money, ATM card and the mobile phone used in the crime etc. are to be recovered from him. It is, however, admitted that report in regard to phone No.+1(712)5613396 from which the objectionable material was sent on the phone of the complainant, is yet to be received from WhatsApp. It is also admitted that report in respect of mobile phone of complainant is also not yet received from DITAC Lab, Gurugram.

Vide order dated 06.06.2023, learned counsel for the complainant had sought time to place on record the photographs, which were annexed with the complaint, in which the petitioner herein is stated to be present to show involvement in the crime. Learned counsel for the complainant seeks more time to place on record the said photographs.

Learned counsel for the petitioner submits that even though the petitioner has no role in the matter, yet he is ready to join and

fully cooperate in the investigation and seeks grant of interim relief to the petitioner.

Adjourned to 18.08.2023.

In the meantime, the petitioner is directed to appear before the SHO/Investigating Officer to join investigation and in the event of his arrest, he shall be released on bail on his furnishing bail bonds to the satisfaction of SHO/Investigating Agency subject to the following conditions as envisaged under Section 438(2) Cr.P.C.:-

i) that the petitioner shall make himself available for interrogation before the Investigating Officer as and when required ;

ii) that the petitioner shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court or to any police officer ;

iii) that the petitioner shall not leave the country, without prior permission of the Court and shall surrender his passport, if any.

Meanwhile, State counsel is directed to file fresh affidavit/status report as to the exact role of the petitioner alongwith the details of pending FIRs, if any, on or before the next date of hearing."

3. Learned State Counsel has filed status report dated 18.08.2023, by way of affidavit of Om Prakash, HPS, Deputy Superintendent of Police (Crime), Nuh, wherein in para 3 it has been stated as follows:-

"3. That the petitioner Sonu joined the investigation of the present case on 25.07.2023 in pursuance of the interim bail granted to him by this Hon'ble Court vide order dated 12.07.2023 in the above titled case. He was enquired about the present case. His disclosure statement was recorded wherein he disclosed that he met prosecutrix through Facebook in the starting of the year 2022 and he told his name to her as Kartik. They exchanged their mobile numbers. Thereafter, one

phone and sim was given to her in the market and later on he came to know that her father got returned her phone and also rebuked her. Thereupon, she reduced their conversations. He started scaring her by saying that the said phone was stolen one and the case has been registered. She got scared and he demanded her nude photos and also demanded money. She sent her nude photos and also gave an ATM card with the limit of Rs.5,000/-. He had withdrawn Rs.20,000/- through the said ATM card. However, prosecutrix's family members managed to obtain from the bank the photograph of him (petitioner) withdrawing the money from ATM. He told his friend Deepak about the same. Deepak asked him to handover the ATM card and the returned phone with sim. The petitioner handed over the returned phone with sim, ATM card and Rs.10,000/-. Both of them started blackmailing her on the basis of the photographs. Her father got to know about the same but he (petitioner) did not stop. At one occasion when they were coming for taking money, prosecutrix's uncle caught them. The petitioner managed to run away and Deepak was caught. Both the families met at the Panchayat and Deepak's family returned Rs.2 Lakhs and the photographs were deleted from Deepak's phone. After some days, he (petitioner) again started blackmailing prosecutrix however she refused to give money, so he sent the photograph on the mobile phone of her father from a fake number through VPN and demanded money from him. However, he got the present case registered. The petitioner further stated that he has spent all the money and his father had broken the phone from which he used to talk to prosecutrix. The above is the role of the petitioner Sonu in the present case.

4. That the petitioner got recovered the said mobile phone in a broken condition. Section 201 IPC was added

in the present case. The said broken mobile phone was taken into police possession. As mentioned above, the petitioner told that he handed over the phone (which was returned by the prosecutrix), ATM card and Rs.10,000/- to accused Deepak.

5. That the supplementary statement of the complainant Dev Karan Dasgupta was recorded wherein he stated that he had got registered the present FIR against Deepak Gupta S/o Om Prakash and Kartik S/o not known. Later on, he came to know that the petitioner Sonu S/o Laxmi Narayan had told his name as Kartik to his (complainant's) daughter. As per the facts told by his daughter, the complainant had got registered the present FIR against Deepak and Kartik. However, it was the petitioner Sonu who used to talk to his daughter through video call. On making thorough enquiry, he came to know that his name is Sonu and not Kartik. Thus, the complainant had prayed for taking action against the petitioner Sonu and co-accused Deepak. That is how, the name of the petitioner Sonu has come forth in the present case..."

4. Learned State Counsel further submits that the prosecutrix even in her statement under Section 164 Cr.P.C. recorded on 30.04.2023 (Annexure R1) has categorically named the petitioner and stated as follows:-

"...Stated that around 2 years ago, I had taken a mobile phone from a girl studying with me at Jain College. My father had made me to return the phone after scolding me. But after returning the phone, Sonu, brother of that girl said to me that the phone was stolen one and as such a case of theft has been registered against me. then he said that if you want to get rid of the case, then give money and some photos without clothes. I got scared and sent some photos without clothes.

Thereafter he started blackmailing me and obtained lakhs of rupees from me. when my father found the money to be less, he asked me but I refused, later on I told him the truth. Then my uncle somehow tried to catch Sonu. He was not caught but his companion Deepak Goyal was caught and he had returned Rs.2 Lakhs. But Sonu had ran away. We settled with Deepak because he had admitted his mistake and he had deleted my photo which he was having in his phone and had broken his phone. But in January month of this year, Sonu again phone called me and obtained around Rs.2 lakhs 40 thousand. When i could not give more money, he called my father to blackmail him. When my father did not give money he sent my without clothes photos to my father. That boy has ruined my life and my family has been humiliated. Strict action be taken against him. I have got recorded my statement, which is correct.”

5. Without commenting on the merits of the matter, however, keeping in view the totality of the facts and circumstances of the case as noticed above, I find no ground is made out for grant of anticipatory bail to the petitioner. Present petition accordingly stands **dismissed**.

6. Pending application(s) if any also stand(s) disposed of.

31.08.2023

Sunena

(Nidhi Gupta)
Judge

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No