

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

104+207

CRM-M-40434-2022 (O&M)

Date of decision: 01.12.2023

Anuj Kumar @ Anuj Sharma @ Laddi

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Gursewak Singh, Advocate
for the petitioner.

Mr. Kunwarbir Singh, AAG, Punjab.

MANISHA BATRA, J. (Oral)

1. CRM-50093-2023

Allowed as prayed for.

The documents are taken on record as Annexures P-5 to P-13.

2. CRM-M-40434-2022 (O&M)

The present petition has been filed under Section 439 of Cr.P.C. by the petitioner seeking grant of regular bail in case FIR No. 0091 dated 27.06.2021, registered under Sections 376, 506, 511 of the IPC, Section 12 of the POCSO Act, 2012 and Section 67(A) of the Information Technology Act, 2000 at Police Station Divison No. 1, District Pathankot.

3. Brief facts of the case relevant for the purpose of disposal of the present case are that the aforementioned FIR was registered on the basis of the statement recorded by the prosecutrix 'A' (*name withheld*) alleging

therein that she had come into contact with the petitioner through Facebook about four/five months back and they had become friends. On 01.04.2021, the petitioner had called her at Tourist Hotel by pressurizing her to do so, otherwise threatening to post her photographs and phone number on Facebook. The prosecutrix had reached said hotel at 11:15 P.M. Where the petitioner asked her to take off her clothing, otherwise threatened to kidnap her brother and kill him. Feeling afraid, the prosecutrix had done so and the petitioner had then captured her video on his mobile phone. One week thereafter, he started making demands of money from her by extending threats to upload her video on Instagram and Facebook. After extending threats to her thrice, he uploaded the said video, which had gone viral on Instagram and also sent the said video on her Whats App, after which, the prosecutrix started receiving phone calls from different persons. She prayed for taking penal action against the culprit. After registration of the FIR, investigation proceedings were initiated. After completion of necessary investigation and usual formalities, challan was presented in Court. The petitioner is presently facing trial for commission of aforementioned offences.

4. Learned counsel for the petitioner has argued that the petitioner is in custody since 03.07.2021. He has been falsely implicated in this case. Neither the prosecutrix nor her mother have supported the prosecution version in their sworn depositions as recorded before the Court. The trial is likely to take some time. No useful purpose would be served by keeping him in custody anymore. Therefore, he has argued that the present petition deserves to be allowed.

5. *Per contra*, learned State counsel has resisted the petition and has argued that there are serious and specific allegations against the petitioner. Simply because the prosecutrix and her mother have not supported the prosecution version, the petitioner cannot be extended benefit of bail. Therefore, he has argued that the petition does not deserve to be allowed.

6. I have heard learned counsel for the parties and have also gone through the material placed on record very carefully.

7. The petitioner is alleged to have made an attempt to commit rape upon the prosecutrix, sexually harassed her and is further alleged to have criminally intimidated her. He is also alleged to have committed the offence punishable under the provisions of Information Technology Act, 2000. He is in custody since 03.07.2021. A perusal of the sworn statements of the prosecutrix and her mother reveals that none of them have implicated the present petitioner in the subject crime. They have been declared hostile on resiling from their previous version and have exonerated the petitioner of the allegations as levelled against him. Keeping in view the period spent by the petitioner in custody, the fact that the star witnesses of the prosecution have not supported its case and also in view of the attendant facts and circumstances of the case, this Court is of the considered opinion that the petitioner deserves to be granted the concession of regular bail.

8. Accordingly, the present petition is allowed and the petitioner is ordered to be released on regular bail, subject to his furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate concerned.

9. It is made clear that any observation made herein above is only

for the purpose of deciding the present petition and the same shall have no bearing on the merits of the case.

01.12.2023

Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No