

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-38217-2023 (O&M)
Reserved on : 18.08.2023
Date of decision : 21.08.2023

Yogesh Mangla ... Petitioner(s)

Versus

State of Haryana ... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present: Mr. R.S. Rai, Senior Advocate with
Ms. Sukriti Rai, Advocate for the petitioner.

Ms. Mahima Yashpal, DAG Haryana.

Mr. Sumeet Goel, Senior Advocate with
Mr. Ishan Khetarpal, Advocate for the complainant.

ALKA SARIN, J.

1. This is the first petition under Section 438 of the Criminal Procedure Code, 1973 (CrPC) for grant of anticipatory bail to the petitioner in FIR No.0029 dated 07.03.2023 under Sections 323, 506, 354-C, 354-D, 376, 201, 34 of the Indian Penal Code, 1860 (IPC) and Section 10 of the Protection of Children from Sexual Offences Act, 2012, registered at Police Station Women Police Station Ballabgarh, District Faridabad.

2. Learned senior counsel appearing on behalf of the petitioner has contended that the petitioner has falsely been implicated in the case and in fact the present FIR is a counterblast to the FIR lodged by the petitioner on 07.03.2023 against the cousin of his wife, who had borrowed an amount of Rs.15,00,000/- from him. Learned senior counsel for the petitioner would further contend that the provisions of the POCSO Act would not be attracted in the present case since the alleged incident is 4 years prior to the date of filing of the FIR which would mean that the victim was about 21 years of age. It is further contended that the petitioner herein had joined investigation and he was granted anticipatory bail by the Court of Additional Sessions Judge on 23.06.2023. It is further submitted that initially Sections 376, 354-A, 120 IPC were deleted. Thereafter, the matter was reinvestigated and on 03.07.2023 the offences under Sections 376 and 201 IPC were added. Learned senior counsel has further pointed out that even as per the status report, the petitioner had joined investigation and has handed over the Apple iPhone 12 which has been sent to the Digital Investigation Training and Analysis Centre (DITAC), Gurugram for examination and the report is still awaited. It is further the contention that the Reception Manager of Sunbird Hotel, Surajkund, Faridabad, where the petitioner is alleged to have taken the victim, has also stated that though he (the petitioner) had inquired about a room, however, thereafter the petitioner never called Jai Bhagwan (Reception Manager of the Sunbird Hotel) nor met him.

3. *Per contra*, learned State counsel has referred to the status report filed by way of affidavit of Vivek Chaudhary, HPS, Deputy

Superintendent of Police, State Crime Branch, Gurugram wherein it has been stated that on 16.09.2022 the petitioner took the victim to Oyo Hotel Badkal, Faridabad and committed a wrong act upon her. He had been threatening the victim that he would make her photographs viral. On 17.09.2022 the victim is stated to have narrated the entire incident to her family members and thereupon, before a family Panchayat, the petitioner admitted his mistake and gave in writing that he will not blackmail or harass the victim. However, subsequently he again started harassing her and on 06.03.2023 yet another Panchayat was convened where he misbehaved with the family members. Counsel for the State has further submitted that in the investigation carried out initially the hotel staff was not associated. Subsequently, on 29.05.2023, further verification of facts was conducted by Sh. Rajesh Duggal, IPS, Deputy Commissioner of Police, Ballabgarh, Faridabad. On 08.06.2023 the complainant, her brother and uncle joined investigation and on 09.06.2023 the DCP Ballabgarh issued various directions to the SHO Women Police Station Ballabgarh to conduct the investigation keeping in view certain points. The investigation was conducted by Lady SI Babita and Section 10 of the POCSO Act was added on 13.06.2023. The statement of the victim was got recorded before the Child Welfare Committee on 14.06.2023 and her mark-sheet of 10th Class was also taken into possession. Subsequently, a Special Investigation Team (SIT) was constituted by the Commissioner of Police, Faridabad on 15.06.2023 headed by the ACP Crime, Faridabad and other members.

During the course of investigation, Jai Bhagwan (Reception Manager of

Sunbird Hotel) and Yogesh Mangla (the present petitioner) were found to have conversed with each other and the petitioner had inquired about the vacancy of a room. Jai Bhagwan thereafter inquired about the vacancy from Rajesh (Waiter of the Hotel). However, he had stated that thereafter the petitioner did not contact Jai Bhagwan. After the petitioner had joined investigation on 03.07.2023, Sections 376, 201 IPC were added in the present case. The investigation was subsequently transferred to the State Crime Branch by the Director General of Police, Haryana vide order dated 26.05.2023. Thereafter, the Additional Director General of Police, Crime, Haryana vide order dated 04.07.2023 transferred the investigation to the State Crime Branch, Gurugram and now the investigation is being conducted by the Deputy Superintendent of Police, State Crime Branch, Gurugram. Learned counsel for the State would further contend that the mobile phone containing the photographs is yet to be recovered as the petitioner has stated in his disclosure statement that the mobile phone was broken as it fell on the road. Also, keeping in mind the gravity of the offence, the petitioner is not entitled to the grant of anticipatory bail.

4. Learned senior counsel appearing on behalf of the complainant has pointed out to the written apology given by the petitioner which also finds mentioned in the status report wherein he states that he would have no contact with the complainant and would not harass her. The videos of the proceedings held on 17.09.2022, which were recorded by the family members of the complainant and which also find mentioned in the status

report, were also handed over to the Court during the course of hearing wherein the petitioner can be seen apologizing to the family members.

5. Heard.

6. In the present case, serious allegations have been made against the petitioner who is none other than the *Fufa* (Bua's husband) of the complainant. The petitioner is alleged to have been harassing the complainant and blackmailing her that he would make her nude pictures viral which he had taken a few years ago while she had visited her Bua's house and was bathing. The petitioner is alleged to have further taken the complainant to an Oyo Hotel in Badkal, Faridabad and committed a wrong act upon her without her consent. On 17.09.2022, as is apparent from the video and the written apology, a Panchayat was convened when the complainant narrated the whole incident to her family members and the petitioner apologized for his acts in writing as well as has been seen in the video. However, he again started harassing the victim and again a Panchayat was convened on 06.03.2023 which resulted in a fight between the family members and an FIR was got registered by the petitioner on 07.03.2023 alleging therein that some of the family members of the complainant owed money to him. On the same day, the present FIR was registered. As narrated above and as has been brought to the notice of this Court by learned State counsel, initially Sections 376, 354-A, 120 IPC were deleted on 31.03.2023. However, on subsequent investigation Sections 376 and 201 IPC were added on 03.07.2023. The investigation was eventually transferred to the Crime Branch by the Director General of Police, Haryana and on 04.07.2023 the

Additional Director General of Police, Crime transferred the investigation to the State Crime Branch. Serious allegations have been made against the petitioner. The written apology and the video have also been perused by this Court.

7. Keeping in view the totality of circumstances and the gravity of the offence alleged, this Court does not find this to be a fit case for grant of anticipatory bail. The present petition is, accordingly, dismissed. Pending applications, if any, also stand disposed off.

21.08.2023
Yogesh Sharma

(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO