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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-40678-2023
Date of decision: 22.11.2023

ABHIJEET BANERJEE

VERSUS

...PETITIONER

STATE OF HARYANA

...RESPONDENT

CORAM: HON’BLE MR. JUSTICE VIVEK PURI

Present: Mr. Prateek Rathee, Advocate for the petitioner.

Mr. Surinder Kumar Dagar, DAG, Haryana.

VIVEK PURI,J. (ORAL)

1. Status report by way of affidavit of Mahesh Kumar, HPS, Assistant Commissioner of Police, NIT, Faridabad on behalf of the respondent-State has been filed and the same are taken on record.

2. On 21.08.2023, the following order was passed:-

- “1. Petitioner is seeking anticipatory bail in case bearing FIR No.425 dated 09.06.2023 under Sections 328, 376(2)(n) IPC (Section 506 IPC added later on), registered at Police Station Surajkund, District Faridabad, Haryana.*
- 2. Learned counsel for the petitioner contends that the prosecutrix is the wife of his brother. The marriage of the prosecutrix and the brother of the petitioner was solemnized on 28.04.2018. The matrimonial dispute had cropped up between the prosecutrix and brother of the petitioner and the prosecutrix left the matrimonial house on 30.01.2023. The brother of the petitioner has instituted a petition under Section 13 of the Hindu Marriage Act for dissolution of marriage on 31.05.2023. The first instance of alleged rape took place as back as on 30.11.2020. Even, it has been alleged that the petitioner had committed rape upon the prosecutrix while she was in her parental house. The FIR has been falsely lodged as a counter-blast to the divorce proceedings initiated by the brother of the petitioner.*
- 3. Notice of motion.*
- 4. Mr. Ranvir Singh Arya, Addl. AG Haryana accepts notice on behalf of the State and submits that the petitioner had clicked the obscene pictures and videos*

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and by threatening to make the same viral, he had been sexually exploiting the prosecutrix.

5. Adjourned to 03.11.2023.

6. Meanwhile, the petitioner shall join the investigation and would come present as and when called for and in the event of arrest, the petitioner shall be admitted to interim bail on his furnishing personal and surety bonds to the satisfaction of Arresting/Investigating Officer. The petitioner shall also abide by the conditions as specified under Section 438(2) Cr.P.C.”

3. Learned counsel for the petitioner contends that the petitioner has joined the investigation in pursuance of interim directions. As per the status report, the offence under Section 201 IPC has also been added as the mobile phone was not got recovered by the petitioner. In fact, the allegations with regard to taking obscene videos of the complainant are false. The mobile phone of the petitioner was damaged and he has taken a new mobile phone with previous number. Moreover, there is no allegation to the effect that any such alleged obscene videos were circulated or forwarded to anyone. The offence under Section 201 IPC is bailable.

5. On instructions from ASI Anita, learned State counsel submits that though, the petitioner has joined the investigation but the offence under Section 201 IPC has also been added.

6. Be that as it may, in pursuance of interim directions, the petitioner has joined the investigation. There are allegations with regard to marital discord between the prosecutrix and the brother of the petitioner. The brother of the petitioner has already been initiated divorce proceedings against the prosecutrix. The first instance of alleged rape took as back as on 30.11.2020 i.e. about 2½ years prior to the registration of the FIR. Even, it has been alleged that the petitioner had committed rape upon the prosecutrix while she was in parental

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7. In view of the aforesaid submissions, the order dated 21.08.2023, granting interim bail to the petitioner is made absolute. However, it is made clear that this order shall also be construed to have been passed with regard to the offence under Section 201 IPC.
8. The petition is allowed.

22.11.2023
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(VIVEK PURI)
JUDGE

Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No