

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-50968-2023
Reserved on:17.11.2023
Pronounced on: **22.11.2023**

VISHESH GURIYA

. . . . Petitioner

Vs.

STATE OF PUNJAB

. . . . Respondent

CORAM: HON'BLE MR JUSTICE DEEPAK GUPTA

Present: - Mr. K.S. Boparai, Advocate, for the petitioner.

Mr. M.S. Nagra, AAG, Punjab.

Mr. Rajiv Kawatra, Advocate, for the complainant.

DEEPAK GUPTA, J.

By way of this petition filed under Section 438 CrPC, petitioner prays for grant of anticipatory bail in case FIR No.171 dated 12.09.2023 registered at Police Station City Fazilka, District Fazilka under Sections 465/500/120B/420/406/498A IPC and Section 67A of the Information Technology Act, 2000.

2. FIR was lodged on the complaint of Meenakshi d/o Rajinder Kumar, as per which she was engaged to Rajesh Kumar son of Sukhdev Raj on 20.09.2020. Due to some mis-information provided by co-accused Shivani and others, the engagement was initially broken but later on, both the parties agreed to perform the marriage. Marriage was then performed on 23.02.2022. It is alleged that later on, the husband and other family members started maltreating the complainant for demands of dowry. Prayer was made to take action against

the husband Rajesh Kumar, residing in Australia besides his father, mother, brother, bhabhi, sister and her husband.

3. (a) The contention of ld. counsel for the petitioner is that petitioner is not named in the FIR; that he has no connection with either of the parties to the marriage; that FIR is false and frivolous; that during investigation, it was disclosed that husband Rajesh Kumar had made a call to the complainant and her family members disclosing that he had certain photographs in his phone proving that complainant during her student life had friendship with the petitioner and therefore, husband Rajesh Kumar did not want to keep her as his wife.

(b) Ld. counsel submits that petitioner and complainant were only classmates in BCA course and that petitioner has nothing to do with the personal life of the complainant and her husband. It is further submitted that father of the complainant is an Inspector in the Punjab Police and that by misusing his influence, signatures of petitioner were taken on some blank papers so as to arrest him.

4. Strongly opposing the petition, ld. State counsel ably supported by counsel for the complainant, pointed out that prior to registration of the FIR, the complaint dated 11.08.2022 made by complainant-Meenakshi; apart from the complaints dated 16.09.2022 & 15.09.2022 of Rajesh Kumar and 04.10.2022 of Sukhdev Raj were thoroughly enquired into through Director Bureau of Investigation, Head Quarter, Punjab. It is pointed out that during enquiry, initially conducted by DSP, Sub Division, Fazilka and later on during the enquiry conducted by the Bureau of Investigation, it was found that petitioner confessed that under the threat of Rajesh Kumar, the husband of complainant

Meenakshi, he (petitioner) had edited the photographs of complainant and sent the same to Rajesh Kumar, so that said Rajesh Kumar could get rid of the complainant. State counsel has also drawn attention towards the statement made by the petitioner during the enquiry conducted by the DSP as well as by the Bureau of Investigation, copies of which are Annexures R1/T and R2/T.

5. (a) In addition to above, ld. counsel for the complainant contends that apart from Section 67A of the Information and Technology Act, 2000 and Section 500 IPC, offence under Section 354C of the IPC is also liable to be invoked in view of explanation (2) to Section 354C IPC providing that where the victim consents to the capture of the images or any act, but not to their dissemination to third parties and where such image or act is disseminated, such dissemination shall be considered an offence of Voyeurism within the meaning of Section 354C IPC.

(b) Ld. counsel contends that simply because petitioner is not named in the FIR, does not prove his innocence because FIR is not an encyclopedia; that it is only during the investigation that name of the petitioner emerged to have committed cognizable offence and that dealings between the petitioner and the husband of the complainant took place behind the closed doors to have connived with each other and that petitioner in collusion with the complainant's husband morphed her normal photographs into sexually explicit ones with an objective to defame her, resulting in her character assassination and ultimately destroying her marital home.

6. Ld. State counsel has also submitted that investigation is at initial stage and that for thorough investigation, custodial interrogation of the petitioner is required.

With these submissions prayer is made for rejecting the bail petition.

7. I have considered submissions of both the sides and have appraised the record.

8. The statements made by the petitioner during the enquiry conducted at two levels, would reveal that at the instance of Rajesh Kumar, the husband of the complainant Meenakshi, petitioner sent her photographs to said Rajesh Kumar after manipulating the same through his Facebook messenger. He specifically told his messenger account through which the photographs were sent and also told that the photographs are now available on his laptop. Apart from the recovery of the laptop, custodial interrogation of the petitioner may be required to unearth the entire truth. Simply because father of the complainant is an Inspector in the Punjab Police, cannot be a reason to infer that he is influencing the investigation, particularly considering the fact that necessary enquiries were made even by the Bureau of Investigation.

9. Having regard to all the facts and circumstances especially the role and specific attribution to the petitioner, as has emerged during the enquiry conducted prior to registration of the FIR and also the nature of the offence, but without commenting anything further on merits of the case, this Court does find the present case to be a fit for grant of anticipatory bail.

Dismissed.

Pending application(s), if any, shall stand disposed of.

22.11.2023

Vivek

1. Whether speaking/reasoned?
2. Whether reportable?

(DEEPAK GUPTA)
JUDGE

Yes
No