

CRM-M-57280-2023

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

(214)

CRM-M-57280-2023
Date of Decision:-20.11.2023

Virbhan

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE ALOK JAIN

Present: Mr. L.K. Gollen, Advocate for the petitioner.

Mr. Anmol Malik, DAG, Haryana.

ALOK JAIN, J. (Oral)

1. Prayer is for grant of regular bail to the petitioner in case FIR No.337 dated 22.09.2022, under Sections 354-A, 376(2)(n), 376 (2)(f), 323 of IPC (Sections 34, 498-A, 506 were deleted during investigation), registered at Police Station Uchana, District Jind.

2. The learned counsel for the petitioner has argued that the petitioner is in custody since 30.09.2022 and the allegations made in the complaint are absolutely false. He further submits that the complainant had, in fact first filed a complaint under the Domestic Violence Act and subsequently had also filed a complaint at Rohini Police Station, Delhi and on the same set of allegations, the present FIR has been lodged at Uchana, Jind.

3. He further submits that the second complaint was *per se* not maintainable and as regards to the allegation of rape by the petitioner with

her daughter-in-law, which is made on the basis of a video, proves that the said camera was set up by the complainant herself and the relationship was consensual in nature.

4. Learned counsel for the petitioner has relied upon the judgment passed by the Hon'ble Supreme Court of India in *T.T. Antony Vs. State of Kerala* 2001(6) SCC 181 to contend that the power of investigation does not warrant subjecting a citizen each time to a fresh investigation by the police in respect of the same incident to substantiate his arguments that the second FIR was not permissible.

5. I have heard learned counsel for the petitioner and the State counsel as well.

6. It is a case where the petitioner being the father-in-law in a fiduciary relationship crossed the line of morality and it is a specific case of the complainant that despite narrating the entire incident to her husband from day one, when such an immoral act was being committed by the petitioner with her, she was not supported by her husband, rather the petitioner along with his wife, daughter and the son, who happen to be the husband, mother-in-law and sister-in-law of the complainant started harassing her even more.

7. The present petition is not for quashing of the FIR and hence, the judgment relied upon by the counsel for the petitioner will not come to his rescue.

8. The principle of law laid down by the Supreme Court of India in *T.T. Antony's* case (supra) clearly demonstrates that for the same set of allegations, two FIRs cannot be lodged. However, in the present case,

merely one line in the FIR lodged with the Rohini Police Station, Delhi matching with the detailed FIR lodged by the petitioner at Jind, would not entitle the petitioner for grant of bail, at this stage, for his act and conduct.

9. It is a specific case of the complainant that the petitioner had been torturing the complainant daily and was threatening to kill her and, hence there was a recurring cause of action available to the complainant.

10. After hearing learned counsel for the petitioner, at length, the conscience of this Court is pricked hereby to the effect that the petitioner cannot be granted the concession of regular bail for the alleged offence.

11. In light of the above the present petition is dismissed.

(ALOK JAIN)
JUDGE

November 20, 2023

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Whether speaking/reasoned:-	Yes/No
Whether Reportable:-	Yes/No