

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-4042-2024

Date of decision: 31.01.2024

Raghvir Singh

....Petitioner

V/s

State of Punjab

....Respondent

CORAM: HON’BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Amandeep Singh Jawandha, Advocate,
for the petitioner.

Mr. Adhiraj Singh Thind, AAG, Punjab.

Mr. Aminder Singh, Advocate,
for the complainant.

SUMEET GOEL, J. (ORAL)

1. Present petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case bearing FIR No.210 dated 22.11.2023 registered for the offences punishable under Sections 376(2)(n), 384 and 506 IPC at Police Station Bhawanigarh District Sangrur.
2. The case set up in the FIR in question is as follows:-

“Copy of the complaint, "Complaint PGD-1-ID 202317 SPID 199561 dated 20.07.2023 from the office of S.S.P Sangrur. Complainant Raj Kaur wife of late Raj Singh resident of village Bijalpur, Bhawanigarh, District Sangrur against Raghvir Singh son of Bachan Singh, resident of village Bijalpur, PS Bhawanigarh, District Sangrur, u/s 376 (2) (n), 385, 506 IPC received through post the subject matter of which is as under:- To, S.S.P Sangrur. Subject: For taking legal action against (1) Raghvir Singh son of Bachan Singh, resident of village Bijalpur, Tehsil Bhawanigarh, District Sangrur. Sir, the complaint is as under:- That complainant Raj Kaur wife of late Raj Singh resident of village Bijalpur, Tehsil Bhawanigarh, District Sangrur and is a household lady and her parents house is at village Bijalpur and I am residing there only because I do not have any brother. My husband Raj Singh had died in the

year 2005. I have two children out of which one of my son has died. (2) That the above stated accused Raghvir Singh was friend of my husband Raj Singh and he was working as JE in the electricity department. After the death of my husband, the above stated person started coming to my house because I am less educated and I had to get my works done into the government offices and I used to tell the same to the above stated person because I had faith like God on the above stated persons. (3) That in the year 2008, I developed physical relationship with the above stated persons and the time passed and approximately in the year 2014-15, the accused made my video on his phone and at that time I did not know anything regarding the video. But in the year March 2016, the above stated persons came to my house at night time and who had drunk. At that time my relative had come to our house. The above stated persons told me that make physical relationship with me today and he forced me and he shown me my obscene video on his phone and told me that if I refused him for anything in the future then he will viral the video amongst the residents of the village and I will show the video to your sons. In this way I became scared very badly and after that the real face of this person came in front of me. The above stated person took Rs. 10,000/- sometimes Rs.15,000/- many times from me by blackmailing me and he developed physical relation with me without my consent and he kept on committing rape upon me. In the year 2015, the above stated persons got my land mortgaged and then he told me in the year 2017 that I should get the sale deed executed in favour of him and if I refused to do the same, then I will viral the video. I will pay you the cost of the land in installments. At that time, I had no other option but to accede to his demand because I was in dire need of money. Because That to send my son abroad. Above stated person gave me around Rs.50 lacs and he did not pay me the remaining amount till today and second time, the above stated person told me that I will pay whole of your money, if I get the sale deed executed of 3 bighas of my land on his name. But I refused to do the same to the above stated person. Then above stated person gave me some amount of Rs.4,75,000/- as advance and he told me that the remaining amount he will pay through cheques to me. But the above stated person neither paid any amount nor he gave any cheque and if I demanded money from the above stated person then the above stated person used to threaten me with the video and blackmailed me and he developed physical relationship with me without my consent and he committed rape upon me. Now I came to know that the above stated person had taken my mother Surjit Kaur around three years ago in order to repay the limit/loan, but the above stated person by taking the benefit of my old aged mother got 10 bighas of land registered on his name. Because above stated person used to take our land on rent from the very long time. When we wanted to get our land back from the above stated person then the above stated person told himself to be the owner of the land and he cheated us, he kept on making physical relationship with me forcibly by threatening me with the video. Legal action be taken against the above stated persons and justice be given to me. Sd/- Raj Kaur wife of Late Raj Singh, resident of village Bijalpur, Bhawanigarh, District Sangrur, M.9876388857, Dated 20.07.2023, on which Senior Superintendent of Police Sangrur gave his consent through his office order No.PGD-ID 202317 and ST-ID

199561/P dated 20.07.2023 directed SP-PBI to examine and ensure n/legal action and report Sd/- S.S.P Sangrur dated 20.07.2023, on which SP PBI through his office order No.77/5-PSP (PBI) dated 11.10.2023 prepared his investigation report the subject matter of which is as under:- "In order to investigate the complaint both the parties were personally heard, statements recorded and from the documents produced the following facts have come out:- That complainant Raj Kaur is only the daughter of her mother father, her marriage was solemnized in the year 1990 with Raj Singh son of Sajjan Singh, resident of Lidhra. The father of the complainant namely Mahinder Singh had died in the year 2002 and due to his death and because she had no brother and sister and she came to her parent's village Bijalpur in order to take care of her old mother namely Surjit Kaur. During this period in the year 2005, the husband of the complainant namely Raj Singh died. The father and mother of the complainant had 37 bighas of ancestral land. Opposite party Raghvir Singh son of Bachan Singh resident of Bijalpur was the friend of the husband of the complainant namely Raj Singh and due to the resident of the same village, he had visiting terms in the house of the complainant. The complainant party had full faith on him. After the death of the husband of the complainant Raghvir Singh started coming more in the house of the complainant. Due to the fact that the complainant party had faith on above stated Raghvir Singh, the complainant party used to tell Raghvir Singh to get her private or government work done. Because the complainant was less educated and at that time her children were small. Due to the pretext of work, Raghvir Singh took the complainant in faith after the death of her father and also took 37 bighas on lease and in the year 2008, Raghvir Singh took the complainant in his love trap and established physical relationship with her. As per the complainant, Raghvir Singh had made some video of the complaint in his phone in the year 2014-15 and the complainant came to know about the same in the year March 2016. At that time when Raghvir Singh came to her parents house at night inabriated condition. At that time, the relatives of the complainant i.e. her uncle Amarjit Singh, Aunt Gurmeet Kaur, resident of village Kheri and her sister Ranjit Kaur wife of Jagtar Singh, resident of Bigharwal was present in her house. In their presence, Raghvir Singh who was inabrivated condition pressurized the complainant to develop physical relationship and he started threatening by showing her the obscene video in his phone and if the complainant refused to do anything then he will-viral the video among the residents of the village and he also threatened the complainant by sending the video to her sons, it has been stated by the complainant. This was verified from the statement of the sister of the complainant namely Ranjit Kaur wife of Jagtar Singh resident of Bigharwal. The complainant got scared by seeing the video because of which above stated Raghvir Singh started threatening the complainant to viral her video and blackmailed her and he used to take sometimes Rs.10,000/- and another time Rs.15,000/- and he committed rape upon her without her consent. in the year 2015, the above stated Raghvir Singh on the pretext of mortgage deed of the land of complainant party pressurized the complainant to get the sale deed executed of the land of the complainant in the year 2017, the complainant on the refusal of the same was threatened to viral her video. At that time, the complainant had no other option

but to accede to the demand of Raghvir Singh. Raghvir Singh also told the complainant that he will give the money of the land deal to the complainant in installments. In this way, Raghvir Singh cheated the complainant and got registered the sale deed of 6 bighas of land from the total land of 37 bighas which was mortgaged with him. The sale deed was got registered at the rate of Rs.4,00,000/- (Rs. Four Lac) per bigha in favour of his daughter-in-law Paramjit Kaur through his son Narinderpal Singh on 14.12.2017. At the time of registration of sale deed as per the record Rs.1,93,750/- in cash and Rs.6,50,000/- were paid in the HDFC Bank Account No. 50100016301887 through RTGS, but this amount was not received in the bank account of the complainant as per the bank statement which was presented by the complainant. Copy of the bank statement and registered sale deed is annexed with the report. After that Raghvir Singh started putting pressure to get the sale deed executed of 3 bighas more land from the complainant, but the complainant refused to do the same by saying that the remaining amount from the earlier sale deed be paid to the complainant. Then Raghvir Singh got the sale deed executed of 3 more bighas by paying her Rs.4,75,000/- at the rate of Rs.4,00,000/- per bigha and he materialized the deal orally and he got the sale deed executed in the name of his wife Paramjit Kaur on 07.06.2018 and gave the assurance to clear the remaining amount through cheque. The amount was not paid by Raghvir Singh and no cheque was given. Complainant demanded money from Raghvir Singh, then Raghvir Singh again threatened the complainant to viral her video. At the time of execution of sale deed as per the bank draft no. 000688 dated 07.06.2018, HDFC Bank Branch Bhawanigarh Rs.3 lacs were to be paid as per the writing, but as per the statement present by the complainant this amount was never received in her account. Copy of the bank statement and copy of the registered sale deed are annexed with the report. Raghvir Singh, who had taken the land of the complainant on lease, also knew about the pending bank loan. By taking the benefit of the same, Raghvir Singh got the sale deed registered of 10 bighas of land belonging to the mother of the complainant namely Surjit Kaur, he in connivance with Samanjit Kaur wife of Narinderpal Singh alongwith his son Narinderpal Singh by saying that they have to pay the bank limit amount got the sale deed registered of land measuring 10 bighas which was on the name of mother of the complainant in the year 2020, the market value of the same was Rs.40,00,000/- and got the sale deed registered on 10.07.2020 on the name of daughter in law of Raghvir Singh namely Samanjit Kaur at the time of registration of sale deed and from checking the record, cheque no.000003 HDFC Bank, it was written that Rs.14,70,000/- was to be paid. But as per the bank statement presented by the complainant, the mother of the complainant namely Surjit Kaur did not receive any amount. Bank statement and copy of the registered sale deed are annexed. Conclusion report:- From the above stated Raghvir Singh got the sale deed executed from the complainant by blackmailing her of the land measuring 6 bighas in the name of his wife Paramjit Kaur and he got mentioned the amount in the registered sale deed with his own Will but he did not pay any amount. In this way, Raghvir Singh in connivance with his family members by taking the benefit of old age/illiterate mother of the complainant namely Surjit Kaur also got the sale deed

executed of the land which was on the name of Surjit Kaur measuring 10 bighas, the market value of which was Rs.40 lacs by making the excuse of paying the bank limit in the year 2020 and got registered on the name of his daughter in law Samanjit Kaur and he also got the amount mentioned by his own Will, but did not pay the whole amount has been found. In this way, above stated Raghvir Singh threatened the complainant of her obscene video established physical relationship with the complainant Raj Kaur without her consent and taking money, cheating/threatening getting the sale deed registered with his own will in the name of his wife Paramjit Kaur daughter in law Samanjit Kaur and by not paying the actual amount of the land, the offence u/s 376, 384, 420, 506 IPC is made out against Raghvir Singh son of Bachan Singh, resident of Bijalpur is being recommended. During the investigation, some new facts also come out, if the role of any family member of the above stated Raghvir Singh is found out, then the appropriate action will be taken against them. Recommendations: If it is accepted, then it is recommended that case against Raghvir Singh son of Bachan Singh resident of Bijalpur, u/s 376, 384, 420, 506 IPC be registered and the SHO Bhawanigarh be directed to investigate the matter. Report is presented for appropriate orders. Sd/- SP (PBI) Sangrur on which Senior Superintendent of Police, Sangrur sent it to DDA legal for opinion, Sd/- S.S.P Sangrur dated 16.10.2023, the report was sent to DDAL and DDAL gave his report the subject matter of which is as under:- "Subject:- application from Raj Kaur wife of late Raj Singh. Respected Sir, I have gone through the paper under consideration alongwith enquiry report of S.P. (PBI) Sangrur. In brief as per the allegations of the complainant, after the death of her husband in the year 2008, physical relationship were developed between her and Raghvir Singh. In the year 2014-15, Raghvir Singh clicked her video in her mobile phone without her knowledge. In the year 2016, Raghvir Singh had come to her house and insisted upon her in their physical relationship and when she showed her inability then he had shown her video clip and threatened her to get video viral. Thereafter, he continuously raped her and also got transferred her land. Enquiry officer concluded his enquiry with due findings that Raghvir Singh had committed offence under Section 376, 384, 420, 506 IPC now the opinion of this has been sought. Personal of file reveals that enquiry officer enquired the matter on every point. Even as per enquiry, the consideration amount shown in the sale deed was not paid. In the light of the above facts and circumstances, I do agree with the findings of enquiry officer, prima facie cognizable offence u/s 376 (2) (n), 384, 506 is made out. Opinion is subjected to the final approval of your goodself. Sd/- Husan Bansal, Dy. DA/L dated 16.10.2023. Sd/Husan Bansal, Dy, DA/L/Sangrur 10.10.2023 on which S.S.P Sangrur put his verification and wrote SHO Bhawanigarh to register FIR and investigate. Sd/- S.S.P Sangrur. On receiving the order, the above stated offences u/s 376 (2) (n), 384, 506 IPC against Raghvir Singh son of Bachan Singh, resident of village Bijalpur, PS Bhawanigarh, District Sangrur is registered. Record is completed. Incharge Control Room Sangrur is intimated through email. Special Reports through Head PHG Sardara Singh 358/59 is being sent to Illaqa Magistrate and the higher official. Complete case record alongwith original ruga is

handed over to SI Sukhjinder Singh 1937, Police Chowki Grahchon, Police Station Bhawanigarh.”

3. Learned counsel for the petitioner submits that the petitioner was arrested on 22.11.2023, whereafter an investigation was carried out and challan has been presented on 24.01.2024. Learned counsel for the petitioner has, further referred to a copy of plaint dated 04.07.2023 filed before the Civil Court at Sangrur in a suit titled as “Samanjit Kaur versus Raj Kaur and others”, to argue that the FIR in question is actually outcome of a civil dispute between the parties. Learned counsel has; further referred to the zimni order dated 06.07.2023 passed by the Civil Judge, Jr. Divn. Sangrur (copy whereon has been appended as Annexure R-3 with the present petition); to argue that the notice of the suit was issued to the defendants (therein) on 06.07.2023 for 14.07.2023 & upon receipt of the summons in the said civil suit, the complainant lodged a complaint dated 20.07.2023 to police which led to the registration of the FIR in question on 22.11.2023. Learned counsel has further argued that a civil matter is being given the colour of a criminal case so as to arm-twist the petitioner for an amicable settlement.

4. Learned State counsel has opposed the present petition arguing that the allegations raised are serious in nature and thus the petitioner does not deserve the concession of the regular bail. Learned State counsel seeks to place on record custody certificate dated 30.01.2024 in Court, which is taken on record.

5. Learned counsel for the complainant has vehemently opposed the grant of regular bail by arguing that the allegations raised are serious in nature and the petitioner, who is a co-villager of the complainant, does not deserve to be granted the concession of regular bail.

6. I have heard learned counsel for the parties and have gone through the available records of the case.

7. The petitioner was arrested on 22.11.2023 and after completion of investigation, challan has been presented on 24.01.2024 wherein total 32 prosecution witnesses have been cited. The culmination of trial will take its own time. The rival contention of the parties as to whether the FIR in question arises out of a civil matter or not will be seen during the course of the trial. This Court does not deem it appropriate to delve deep into these rival contentions, at this stage, lest it may prejudice the case of either parties. As per the custody certificate dated 30.01.2024 filed by the learned State counsel, the petitioner is in custody for more than two months and is not shown to be involved in any other case. No perceptible material has been brought forward to indicate the likelihood of the petitioner absconding from the process of justice or interfering with the remaining prosecution evidence. Suffice to say, further detention of the petitioner as an undertrial is not warranted.

8. In view of totality of factual matrix of the present case, the instant petition is allowed. Petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the Ld.concerned CJM/Duty Magistrate. However, in addition to conditions that may be imposed by the concerned CJM/Duty Magistrate, the petitioner shall remain bound by the following conditions:-

- (i) The petitioner shall not mis-use the liberty granted;
- (ii) The petitioner shall not tamper with any evidence, oral or documentary, during the trial.
- (iii) The petitioner shall not absent himself on any date before the trial.
- (iv) The petitioner shall not commit any offence while on bail.

- (v)

The petitioner shall deposit his passport, if any, with the trial Court.
- (vi)

The petitioner shall give his cellphone number to the Investigating Officer/SHO of concerned Police Station and shall not change his cell-phone number without prior permission of the trial Court/Illaqa Magistrate.
- (vii)

The petitioner shall not in any manner try to delay the trial.
9.

In case of breach of any of the aforesaid conditions and those which may be imposed by concerned CJM/Duty Magistrate as directed hereinabove or upon showing any other sufficient cause, the State/complainant shall be at liberty to move cancellation of bail of the petitioner.
10.

Ordered accordingly.
11.

Nothing said hereinabove shall be construed as an expression of opinion on the merits of the case.
12.

Since the main case has been decided, pending miscellaneous application, if any, shall also stands disposed off.

(SUMEET GOEL)
JUDGE

January 31, 2024
mamta

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