

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-12963-2024
Reserved on: 15th May, 2024
Pronounced on: 16th May, 2024

Gaurav Tyagi @ Gourav Tyagi

...Petitioner(s)

Versus

State of Punjab

...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. J.K. Khetarpal, Advocate for the petitioner.
Mr. A.S. Samra, AAG, Punjab.
Respondent No.2 in person.

MANISHA BATRA, J (ORAL):-

The present petition has been filed under Section 439 of Cr.P.C.
seeking regular bail in FIR mentioned below:-

FIR No.	Date	Police Station	Sections
325	03.11.2023	Zirakpur, District SAS Nagar (Mohali)	376 and 377 of IPC, 1860

2. Brief facts of the case relevant for the purpose of disposal of this petition are that on 03.11.2023, the complaint sent by the prosecutrix ‘K’ (name withheld) was received at Police Station Zirakpur alleging therein that from the year 2018 till 2020, she lived in Ganga Nagar, Rajasthan in a paying guest accommodation as at that time, she was taking coaching and also working at a jewellery shop named as Govind Jewellers. After the



outbreak of Covid-19, she went to her native place in Punjab. She had fallen sick for a long time. Her condition was deteriorating and she was under depression, when in the month of September, 2020, she came to know through social media that the present petitioner was running a centre with the name of Amiliyat Nori Nari and claimed to cure all types of diseases and solve all problems through online classes. A video of the petitioner of this effect was also found in the You-tube channel. The prosecutrix joined the facebook group which was following the online classes given by the petitioner and started listening to his speeches. She talked to the petitioner on her phone and video call was also made by him. The petitioner hypnotized her and represented to her that she was possessed by some evil eye and he could cure her and he also persuaded her that some puja should be performed for eleven days for that purpose and her dream of becoming a doctor, will also be fulfilled by the same. As there was lock-down at that time, therefore, the prosecutrix could not go to him but they remained talking with each other through Facebook. On representation made by the petitioner that her treatment could be done at Chandigarh also as he was having a shop in Mohali and being under the influence of petitioner, the prosecutrix agreed for the same. The petitioner rented a room for the prosecutrix at the place of some of his acquaintance, wherein she was to stay from 15.03.2021 to 12.06.2021.

4. As per the further allegations, on 20.03.2021, the petitioner on the pretext of performing puja for her, took her to a godown of his friend,



wherein he took an amount of Rs. 15,000/- from her and she was made to sit for performing puja. He himself consumed liquor and forced her to consume the same and then committed rape upon her. Thereafter, he tried to do the act of carnal intercourse against the order of nature and when his male organ could not penetrate into the anus of the prosecutrix, he inserted a plastic pipe therein. While screaming with pain, the prosecutrix rushed inside the washroom, by locking her from inside and raised rescue alarm, on hearing which, the owner of the place came there and rescued her by making the petitioner understand to let the prosecutrix leave from there. The prosecutrix asked for her money back after four days and on the pretext of giving the same back, he called her somewhere and ravished her again. He also took her nude photographs with his phone and made a video. She was extended threats that her family and herself will be finished, if she disclosed about the incident to anyone. He also extracted more money from her and prevailed upon her to perform puja for seven days for obtaining results. One day, he forcibly put vermilion on her forehead and proclaimed that now she has become his wife. He held her as his hostage for three months and she was repeatedly ravished by him and was forced to pay with a sum of Rs. 80,000/-. She managed to go to Ganga Nagar with the help of owner of Govind Jewellers. After the second lock down imposed in May, 2021, her condition was very bad at that time but the petitioner kept on harassing her by making calls to her. He had been pressurizing her to get him married with her, thereby constraining her to report the matter to police. On her



complaint, initially, a case under Sections 376 and 377 of IPC was registered. Investigation proceedings were initiated. The prosecutrix was medically examined. Her statement under Section 164 of Cr.P.C. was also recorded. The petitioner was arrested on 03.11.2023. During investigation, the victim also produced photographs showing her physical injuries. Investigation has since been completed and challan has been presented in the Court.

3. The present petition has been filed by the petitioner on the grounds and it is argued by his counsel that he has been falsely implicated in this case. He is in custody since 03.11.2023. Both the petitioner and the prosecutrix are astrologers. They are unmarried and adult persons. They were in consensual relationship with each other. Infact, the prosecutrix also got registered one more FIR bearing No. 209 dated 22.09.2023 at Police Station Khrar, under Sections 342, 376 and 506 of IPC read with Section 66-E of Information Technology Act, 2000 against one more person on the same set of allegations and at that time, she did not make any mention of the alleged incidents of rape committed by the petitioner against her. She gave different address and different mobile numbers at that time. The petitioner had no concern with the facebook group named as 'Amiliyat Nori Nari' as alleged by the prosecutrix. She had come into contact with him in March, 2021 through facebook and Whatsapp. She had left her parental home and was living with one Girdhar Swami at Jaipur since 2020 and this FIR was registered at the behest of the said Girdhar Swami. She had been



blackmailing him and had been trying to extort a sum of Rs. 15,00,000/- from him for withdrawal of the case FIR as lodged against him. The medical report did not support her contentions. There is no call detail record to show that there were conversations between the petitioner and the prosecutrix at the relevant point of time. His mobile phone has already been recovered and no nude or obscene videos and photographs of the prosecutrix as alleged, have been recovered from the same. His custodial interrogation is no more required. No useful purpose would be served by keeping him in custody. Trial is likely to take time. There is delay of two and half years in reporting the matter to the police. The prosecutrix is habitual of implicating innocent persons and therefore, it is argued that the petition deserves to be allowed.

4. Status report has been filed by respondent-State. The respondent No.2 also appeared in person in response to the notice issued to her.

5. It is argued by learned State counsel that the allegations against the petitioner are serious in nature. The case is at its initial stage. Even charges have not been framed. There are chances of petitioner's intimidating the witnesses or absconding, if extended benefit of bail. The FIR No. 209 dated 22.09.2023 was lodged with regard to the occurrence that took place in the year 2023, whereas the FIR of this case narrates the incident which took place in the year 2020-21. With these broad submissions, it is urged that the petition does not deserve to be allowed.

6. I have heard learned counsel for the petitioner as well as learned State counsel at considerable length and have gone through the record



carefully.

7. The petitioner is alleged to have induced the prosecutrix to come to him and to get her illness treated on the pretext of performing some tantar rituals and puja. He is alleged to have ravished her firstly in the month of March, 2020 and then repeatedly till May, 2021 by blackmailing her by taking her objectionable pictures and videos and by extending threats to her. Though the petitioner has claimed that no video or objectionable pictures were recovered from his mobile phone but as per the status report filed by the State, his mobile phone has been sent to cyber lab on 24.01.2024 for retrieval of data and the report of cyber lab is still awaited. The allegations against the petitioner are quite serious in nature. The trial is yet to commence. The apprehension of the prosecution that the petitioner may intimidate the prosecutrix or other material witnesses cannot be stated to be unfounded at this stage. No doubt, another FIR on the basis of somewhat similar allegations is shown to have been lodged by the prosecutrix against some other person as FIR No. 209 dated 22.09.2023 but due to that reason, it cannot be stated at this stage that the version of the prosecutrix is false. It is neither feasible nor appropriate for this Court at this stage to arrive at any conclusion, with regard to the question as to whether, it was a case of consensual relationship or of committing rape by the accused. However, the allegations in the FIR do not make out any *prima facie* case of consensual relationship between the parties. Keeping in view the gravity of allegations as levelled against the petitioner, the quantum of sentence which the



conviction may entail and the attendant facts and circumstances of the case, I am of the considered opinion that the petition does not deserve to be allowed, hence the petition is dismissed.

8. It is clarified that observations made hereinabove shall not be construed as an expression of opinion on the merits of the case.

9. Since the main petition has been dismissed, pending application if any is rendered infructuous.

[MANISHA BATRA]
JUDGE

16th May, 2024
Parveen Sharma

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| 1. Whether speaking/ reasoned | : | Yes / No |
| 2. Whether reportable | : | Yes / No |