

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

273

CRM-M-27704-2023 (O&M)
Date of decision: 09.02.2024

Ajit Singh Bagga ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. P. S. Ahluwalia, Advocate
for the petitioner.

Mr. P. S. Pandher, AAG, Punjab.

MANISHA BATRA, J. (Oral)

1. This is the second petition that has been filed by the petitioner under Section 439 Cr.P.C. seeking regular bail in case bearing FIR No.25 dated 01.03.2019, registered under Sections 376, 328, 354-C, 506 and 120-B of the IPC (Sections 354-D, 376-D, 376(2)(n) of IPC and Sections 66, 66-D, 67-A of the Information Technology Act were added later on) at Police Station Mataur, District S.A.S. Nagar.
2. Brief facts of the case relevant for the purpose of disposal of this petition are that the aforementioned FIR was registered on the basis of a written complaint submitted by complainant/victim 'S' (*name withheld*) alleging therein that in the year 2014, she was in search for some job and had gone to Divine Spa, Ludhiana for an interview. The present petitioner Ajit Singh Bagga and co-accused Jaswinder Pal Walia along with one Pawan

Neutral Citation No. 2024:PHHC:018388

Kumar introduced themselves as partners of the said Spa and after taking her interview, they employed her as a Receptionist. She started working there from November, 2014. She alleged that sometime thereafter, the accused Jaswinder Pal Walia developed physical relations with her on the pretext of marrying her and by inducing her. He used to take her to the house of above named Pawan Kumar. The complainant realized after some time that he was postponing the matter of performing marriage with her on one pretext or the other and then, she tried to discontinue her relationship with him but accused Jaswinder Pal extended threats to her to have relations with him and otherwise to make her videos viral on social media, and as such he kept on repeatedly committing rape upon her several times at different places. **She further alleged that she was even forced to have sexual intercourse with the present petitioner and Pawan in the house of Pawan quite a few times.** Then she was forced to have sexual relations with three other persons under the same threat as given by accused Jaswinder Pal. She, however, left the job in Divine Spa and started working elsewhere since June, 2015. She alleged that accused Jaswinder Pal still continued harassing her and blackmailing her still forced her to have sexual relations with him. Ultimately, she disclosed about everything to her parents, who took her to her native place.

3. She further alleged that accused Jaswinder Pal committed rape upon her on 11.06.2016 also by calling her in Sector 117, Mohali. To save her honour, she did not disclose about this fact to anybody. She also alleged that in the month of January, 2019, she came to know through a post as posted by accused Jaswinder Pal on the social media about his travel to India as he had left India in the year 2016 that he was coming back and feeling scared that she would be again blackmailed and ravished by him, she mustered courage to

Neutral Citation No. 2024:PHHC:018388

report the matter to the police. On the basis of her statement and after registration of case, investigation proceedings were initiated. Accused Jaswinder Pal Walia could not be arrested. Proceedings under Section 82 Cr.P.C. were initiated against him and he was declared a proclaimed person. The present petitioner was arrested on 22.12.2022. After completion of necessary investigation and usual formalities, *challan* under Section 173 Cr.P.C. was presented in Court against him. Charges are yet to be framed. He had moved an application for grant of regular bail before the trial Court but the same was dismissed, vide order dated 30.01.2023.

4. The present petition has been filed by the petitioner on the grounds and it has been argued by his counsel that he has been falsely implicated in this case. Neither there are specific allegations against him nor the victim has mentioned as to on which specific date, month and at which place, she had been ravished by the petitioner. It is submitted that the allegations as levelled in the FIR that the present petitioner had introduced himself as partner of Divine Spa to the victim at the time of taking her interview in the year 2014 were false on the face of the same as he had relinquished his rights in respect of the abovesaid Spa by executing a Memorandum of Understanding-cum-Management Agreement in favour of one Attitude Health Centre and Creative Fitness and Spa and the entire command and possession of the business had come into the hands of the other partners and he stopped having any link or concern with the business affairs of the said Spa w.e.f. April, 2014 and, therefore, there was no question of his meeting the victim, taking her interview and subsequently committing rape upon her.

5. Learned counsel for the petitioner has further argued vehemently that the falsity of the allegations in the FIR also stands proved from the fact that it has been lodged after a delay of more four years from the date when she was allegedly ravished by the petitioner and co-accused and no satisfactory explanation qua that delay has been given. It is further submitted by him that the petitioner had no concern with co-accused Jaswinder Pal Walia, who was simply a visitor to the said Spa when he was running the same. It is also submitted that in fact the victim was playing in the hands of some police officer, who was having enmity with accused Jaswinder Pal Walia, who had since been declared a proclaimed person and it was at the behest of the said police officer that the petitioner was also implicated in this case without any rhyme and reason. It is also submitted that the investigation has since been completed. The trial is likely to take time. He is in custody since 22.12.2022. His further detention would serve no useful purpose and, therefore, it is argued that the petition deserves to be allowed and he deserves to be given benefit of regular bail.

6. The respondent-State has filed status report, as per which, in her statement recorded under Section 164 Cr.P.C. as well as in the complaint, the victim had categorically stated that the petitioner was a partner in Divine Spa, wherein she had joined as a Receptionist in November, 2014. Co-accused Jaswinder Pal Walia had befriended her during that period and had made physical relations with her on the pretext of performing marriage with her. He had even made objectionable videos of their intimate moments and subsequently, he had started blackmailing her and forcing her to have sexual relations with the present petitioner and co-accused Pawan Jagwani and some other persons. It is submitted that the fact that the petitioner owns the above

Neutral Citation No. 2024:PHHC:018388

named Spa and the victim was employed in that Spa as well as association of the petitioner with co-accused Jaswinder Pal Walia, stood established during the course of investigation. By further submitting that the abovesaid Jaswinder Pal Walia has fled away to Canada in pursuance of a red corner notice issued against him and has been declared a proclaimed person and that there are chances of petitioner's intimidating the prosecutrix and other material witnesses, who are yet to be examined, it is submitted that the petitioner does not deserve to be given concession of bail.

7. I have heard learned counsel for the parties at considerable length and have also perused the material placed on record.

8. It is not disputed by the petitioner that he was the owner of Divine Spa. He has placed on record a Memorandum of Understanding-cum-Management Agreement shown to be executed on 26.04.2014, which shows that on the said date, he had assigned the business of the Spa to co-accused Pawan Jagwani and a resolution deal was also executed by him. As per own version of the petitioner, co-accused Jaswinder Pal Walia used to visit his Spa. It has also not been specifically denied by him that the present victim had been employed as a Receptionist in the above named Spa. The petitioner might have executed some Memorandum of Understanding, thereby creating release of his business in favour of the company run by co-accused Pawan Jagwani but it is not his claim that he had stopped going to the above named Spa or did not remain in contact with co-accused Jaswinder Pal Walia and Pawan Jagwani. Though, it is also clear from the allegations in the FIR that the victim, while making allegations that on the asking of Jaswinder Pal Walia, who had been blackmailing her, the present petitioner had also committed rape upon her a few times but neither the dates, month nor the

Neutral Citation No. 2024:PHHC:018388

place of occurrence when such acts were committed by the petitioner have been mentioned in the FIR. However, the statement of the victim is yet to be recorded. Only on the basis of the fact that exact date, month and year when the petitioner had ravished her, had not been mentioned in the FIR, it cannot be stated that a false case was lodged against the petitioner. The fact that there is delay in reporting of the matter to the police and there is any reasonable explanation with regard to the same or not, has to be looked into by the trial Court, while deciding trial initiated against the petitioner. The apprehension expressed by learned State counsel that there are chances of the petitioner’s intimidating the witnesses cannot be ruled out. The allegations against the petitioner are quite serious. Gravity of the offence is one of the prime considerations to grant/deny benefit of the bail to an accused. Keeping in view the serious nature of offences, which have been alleged against the petitioner, the quantum of sentence which the conviction may entail and the attendant facts and circumstances, this Court is of the considered view that the petitioner does not deserve to be given concession of regular bail at this stage. Hence, the petition stands dismissed.

9. It is made clear that the observations made hereinabove are only for the purpose of deciding the present petition and the same shall not be construed as an expression of opinion on the merits of the case.

09.02.2024

(MANISHA BATRA)
JUDGE

Waseem Ansari

Whether speaking/reasoned

Yes

Whether reportable

Yes