

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

CRM-M-39262-2023 (O&M)
Date of decision: 28.02.2024

Ashish ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Ravinder Hooda, Advocate
for the petitioner.

Mr. Neeraj Poswal, AAG, Haryana.

MANISHA BATRA, J. (Oral)

1. CRM-7212-2024

Allowed as prayed for. Documents are taken on record as
Annexures P-4 and P-5.

2. CRM-M-39262-2023 (O&M)

This petition has been filed by the petitioner under Section 439
Cr.P.C. seeking regular bail in case bearing FIR No. 22 dated 21.01.2020,
registered under Sections 120-B, 34, 341, 354-C, 376, 506 of the IPC;
Sections 17 and 4 of the POCSO Act, 2012 and Section 67-B of the
Information Technology (Amendment) Act, 2008 at Police Station I. M. T.,
Rohtak, District Rohtak.

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3. Brief facts of the case relevant for the purpose of disposal of this petition are that the aforementioned FIR was registered against the petitioner on the basis of a written complaint filed by the complainant 'K' (*name withheld*) alleging therein that his daughter 'S' (*name withheld*) is a minor. The petitioner has been residing in their neighbourhood. On one day, while the victim was alone at home and was taking bath, then the petitioner came on the roof of their house through roof of the neighbours and had made a video and took photographs of his daughter through his mobile and thereafter, by showing photographs and videos so taken, he had started blackmailing her daughter and harassing her every day. He further alleged that even Priyanka, who is sister-in-law of the petitioner, had joined the petitioner and started extending threats to make her videos viral, if she did not abide by the petitioner. The complainant alleged that on the pretext of making her previous video viral, the petitioner and his sister-in-law had made one more video of the victim and had been extending threats to her to upload the same on the internet. He alleged that his daughter was studying in 10th Class but while noticing that she has lost interest in studies and opted to remain confined in the house itself, his wife had made probe and then the victim had disclosed about the above mentioned facts to her mother and had also disclosed that the petitioner had committed rape upon her in the connivance with and on the instigation/abetment made by his sister-in-law. The aforementioned FIR was registered on the basis of the complaint so filed. Investigation proceedings were initiated. Priyanka, sister-in-law of the petitioner, was found innocent during investigation. The petitioner was arrested on 21.01.2020. He was interrogated and during investigation, he suffered disclosure statement to the

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effect that the co-accused Sumit and Deepak had also captured the vulgar as done by the petitioner with the prosecutrix through their mobile phones and even the petitioner had shared those vulgar videos with the aforesaid accused and, therefore, they were also arrested. After completion of necessary investigation and usual formalities, *challan* under Section 173 Cr.P.C. was presented in the Court and presently, the petitioner along with the co-accused is facing trial for commission of aforementioned offences. He had moved an application for grant of regular bail before the trial Court but the same was dismissed, vide order dated 18.07.2023.

4. The present petition has been filed by the petitioner on the grounds and his counsel has argued that he has been falsely implicated in this case. He is in custody since 21.01.2020. His custodial interrogation is no more required. The trial is likely to take time. It is argued that the trial likely to take time. No useful purpose would be served by keeping him in custody anymore. Hence, it is prayed that the present petition deserves to be allowed.

5. *Per contra*, learned State counsel has argued that there are specific and serious allegations against the petitioner. He had made the vulgar videos of the victim, while she was taking bath and on the basis of the same, he had been blackmailing her and had committed rape upon her by extending threats to kill her. He has also argued that the petitioner has even shared those vulgar videos with the co-accused Sumit and Deepak. It is argued that keeping in view the gravity of offences as levelled against the petitioner, he does not deserve to be given concession of bail.

6. I have heard learned counsel for the parties and have also gone through the material placed on record very carefully.

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7. The petitioner is alleged to have committed the offence punishable under Section 354-C of IPC, i.e. voyeurism by capturing the images/videos of the victim, while she was engaged in a private act i.e. bathing in her house, in circumstance, where she would have expectation of not being observed by any person and is further alleged to have taken advantage of those images/videos and blackmailed the victim. He is also alleged to have wrongfully restrained the victim and then committed the aggravated penetrative sexual assault upon her. There are serious allegations against the petitioner. In her statement recorded under Section 164 Cr.P.C., the victim, who was only 15 years' old girl at that time, is shown to have reiterated the allegations as levelled in the FIR. Annexure P-3 is the copy of the statement of the victim as recorded before trial Court as on 30.09.2021 by way of examination-in-chief and a perusal of the same also reveals that the victim was ravished by the petitioner while his sister-in-law had forcibly taken her in the room of their house and co-accused Sumit and Deepak videographed the incident. Accused Deepak and Sumit have been extended benefit of bail by co-ordinate Benches of this Court but the allegations against them cannot be treated at par with the allegations as levelled against the petitioner. It will also not be out of place to mention here that the complainant had filed an application under Section 319 Cr.P.C. before the trial Court for summoning the sister-in-law of the petitioner as additional accused, which had been dismissed but vide separate order of the even date as passed by this Court, the revision petition filed against the said order has been allowed and she is ordered to be summoned as an additional accused. Keeping in view the gravity of allegations as levelled against the petitioner, the acts as attributed to

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him, 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 same is dismissed.

8. It is made clear that any observation made herein above is only for the purpose of deciding the present petition and the same shall have no bearing on the merits of the case.

28.02.2024

Waseem Ansari/ Parveen Sharma

(MANISHA BATRA)

JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>