

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

206

CRM-M-53667-2023 (O&M)
Date of Decision: 23.04.2024

Jitender Singh @ Jitendra Singh

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Akashdeep Singh, Advocate
for the petitioner.

Mr. Neeraj Poswal, AAG, Haryana.

MANISHA BATRA, J.

1. The petitioner herein seeks the relief of anticipatory/pre-arrest bail in the criminal case having arisen out of the FIR bearing No.284 dated 21.07.2023 registered at Police Station Kherki Dhaula, District Gurugram, under Sections 328, 354-C, 376-D, 376(2)(n), 384 & 406 read with Section 34 IPC.
2. Brief facts of the case relevant for the purpose of disposal of the present petition are that the aforementioned FIR was registered on the basis of a written complaint submitted by the prosecutrix ‘V’ (name withheld) on 21.07.2023 alleging therein that the petitioner was previously having friendly relationship with her. Even after her marriage, which was solemnized on 18.07.2021, with one ‘P’ (name withheld), he did not stop

making calls on her mobile phone, which included video calls as well and he used to insist that he wanted to meet her once. She alleged that in the month of November, 2021, she had met the petitioner and had expressed her desire to do some job on which the petitioner had represented that he would help her in securing some job and also asked her to give an amount of Rs. Five lakhs by saying that he was in dire need of the same. Believing him, she gave that much amount of money to her. As per further allegations, on 14.02.2022, he called her stating that her interview was to be conducted. On hearing so, the prosecutrix along with her husband had gone to Gurugram wherein she had been called by the petitioner. The petitioner made arrangement for their stay in a hotel and even incurred all expenses of their stay. His friend Parshu Ram was also accompanying him at that time. A party was arranged by the said Parshu Ram in the hotel itself and she was offered some soft drink by the petitioner and the said Parshu Ram. She alleged that in fact some intoxicant substance was mixed in the drinks of her husband and herself by the aforesaid Parshu Ram. On consuming the same, they had become unconscious and she gained consciousness on the next morning at about 8 a.m. and found her entire body to be in pain. She alleged that, thereafter, the petitioner and co-accused Parshu Ram, called her in their room and she was shown a video where both of them were seen committing rape upon her. While threatening to make the said video viral, they demanded money from her. Her husband and herself had come back to her matrimonial home, but thereafter, the petitioner had started blackmailing her on the basis of those videos and she was ravished by him and was even

subjected to sex of carnal intercourse against the order of nature by him on subsequent different dates, though a job had been got provided by him to her. As per further allegations, the condition of her mother-in-law had deteriorated due to which she left her job in December, 2022 and came back to her matrimonial house at Jaipur but the petitioner had still been harassing her by making calls to her and by threatening to make her video viral. He even came to Jaipur in Jan, 2023 and ravished her in a vehicle. After registration of FIR, the investigation is underway. In pursuance of order dated 28.11.2023, the petitioner has joined the investigation.

3. The instant petition has been filed by the petitioner on the grounds and it is argued by his counsel that the relationship between the prosecutrix and himself was consensual. Both of them were knowing each other for the last 12 years as they were hailing from the same place. Even after marriage, the prosecutrix had continued relationship with him. He used to financially help her by transferring money in her account. They had even travelled together on various occasions. The husband of the victim was well aware about their relationship and did not object to the same. Rather, he hatched a plan with the prosecutrix to extort money from him and they had started extorting money from him on various occasions due to which he was constrained to lodge FIR bearing No. 279 dated 12.03.2023 under Sections 323, 388 and 120-B of IPC at Police Station Mathura against them.

4. Learned counsel for the petitioner has further argued that the petitioner is having a recorded conversation between the husband of the prosecutrix and himself, wherein the former could be heard demanding

money from him to hush up the matter. It is argued that the FIR in this case is in fact a counterblast to the FIR lodged by the petitioner. He is ready to join the investigation. His custodial interrogation is not required. No useful purpose would be served by detaining him in custody. Accordingly, it is urged that he deserves to be given benefit of pre-arrest bail.

5. It is relevant to mention here that vide order dated 28.11.2023, the petitioner was directed to join the investigation. Status report has been filed by the respondent, as per which on 19.01.2024 after joining the investigation, the petitioner was interrogated and suffered disclosure statement admitting his involvement in the subject crime and disclosed that two mobile phones, which were used by him for the purpose of chatting with the prosecutrix on her WhatsApp had been thrown away by him in a river. It is also submitted that the co-accused Parshu Ram has been extended concession of interim bail. It is also submitted that during the course of investigation, offences under Sections 328, 384, 376-D and 406 read with Section 34 of IPC have been dropped and offence under Section 201 of IPC has been added.

6. Learned State counsel assisted by learned counsel for the complainant has argued that the petitioner had been sexually exploiting the prosecutrix and had also caused disappearance of evidence of the offence of blackmailing and criminally intimidating the prosecutrix by throwing his cell phones. There are serious allegations against him. Thorough investigation is required to be conducted in the matter. He is also misusing the concession of interim bail as granted by this Court as just few days

before the hearing fixed in this petition, the prosecutrix had been got followed by some unknown persons at the behest of the petitioner and a complaint has already been filed by her before the concerned Police Station at Mathura. It is, therefore, urged that the petition does not deserve to be allowed.

7. I have heard learned counsel for the petitioner and learned State counsel assisted by learned counsel for the complainant at considerable length and have gone through the record.

8. The version of the prosecution is that the petitioner, who was having friendly relations with the prosecutrix due to his being a native of the same place as that of the prosecutrix, had assured to secure a job for her and on the pretext of the same, she had been called at Gurugram. She had gone there along with her husband on 13.02.2022. The petitioner had made arrangement of stay of prosecutrix and her husband in a hotel and by making them consume some drink containing intoxicating substance, had made both of them unconscious and thereafter she was ravished by the petitioner. The prosecutrix also levelled allegations that the petitioner and the co-accused had prepared a video of the act of ravishing her and on the basis of the same, they had started blackmailing her and extorting money from her.

9. On the other hand, the case of the petitioner is that the prosecutrix was known to him for the last 12 years as they were native of the same place. There was consensual relationship between them. As the husband of the prosecutrix initially was not aware of the same, therefore, he

was also having friendly relations with him. The petitioner had been helping the prosecutrix financially on several occasions. Subsequently, the prosecutrix and her husband had started blackmailing him and extorting money from him and he was compelled to lodge FIR No. 279 dated 12.03.2023, under Sections 388, 323, 120-B of IPC, at Police Station Mathura against them. According to the petitioner, the instant FIR was a counterblast to the same. The petitioner has annexed with the petition a Compact Disc, which was claimed to have been containing the conversation, as recorded in this Compact Disc having taken place between the petitioner, the prosecutrix and her husband on several times. These recorded conversations which are 13 in number, have been heard by the Court and some of these conversations show that the husband of the prosecutrix had been demanding an amount of Rs. 4 to 4.5 Lakhs from the petitioner and had been bargaining for the same, for hushing up the matter. Though the authenticity of these recorded conversations has to be decided by the learned trial Court on the basis of evidence to be led before it, however, the fact that can be taken into consideration is that the prosecutrix is an adult and married person. She is shown to have lodged the FIR of this case against the petitioner only after he himself had lodged FIR No. 279 dated 12.03.2023 at Police Station Mathura, against the prosecutrix and her husband levelling allegation of extorting money from him and extending threat involving him in a case of rape. She remained quiet for a period of about 1½ years from the date when the first instance of alleged rape was committed by the petitioner upon her on 13.02.2022. The petitioner has

already joined the investigation. His custodial interrogation is no more required as submitted by learned State counsel himself. No recovery is to be effected from him. From the fact that some complaint has been lodged by the prosecutrix levelling allegations of her being followed by some unknown persons, does not give any rise to any inference that she was being followed at the behest of the petitioner and he has misused the concession of interim bail as granted to him.

10. In view the discussion as made above, but without meaning to make any comment on the merits of the case, I am persuaded to hold that the petitioner deserves to be extended benefit of pre-arrest bail. Consequently, the present petition is allowed and the order dated 28.11.2023 granting interim bail to the petitioner is made absolute, subject to the conditions laid down in Section 438(2) of the Code of Criminal Procedure.

(MANISHA BATRA)
JUDGE

23.04.2024

Satyawan

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