

**CRM-M-53156-2024 (O&M)****1****208 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****CRM-M-53156-2024 (O&M)****Date of decision: 29.10.2024****RAHUL SHARMA @ HARRY****...PETITIONER****V/S****STATE OF PUNJAB****...RESPONDENT****CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR****Present:** Mr. Karanjit Singh, Advocate
for the petitioner.

Mr. Rishabh Singla, AAG Punjab.

Mr. Jagdish Singh Mehal, Advocate
for the complainant.**********HARPREET SINGH BRAR J. (ORAL)**

1. The petitioner is seeking grant of regular bail in case bearing FIR No. 109 dated 22.05.2024 registered under Sections 376, 328, 384 and 506 of Indian Penal Code at Police Station City Phagwara, District Kapurthala.

2. The FIR(supra) was lodged against the petitioner on the basis of statement of complainant Amrita Kaur who stated that she got married in 2012 with Sukhchain Singh. In December 2014 her husband shifted to America from Hong Kong at that time she had pregnancy of 4 months and therefore she came to India and started residing at her in-laws house. On 15.02.2015, she gave birth to a son at her in-law's house. In 2017 her mother-in-law and father-in-law had died. She, with the consent of her husband started staying along with her son in a rented accommodation in Phagwara. In 2018, along with her son she went to Armenia and in 2020 she returned to India and started residing at Shalimar Garden near (Urban Estate) Phagwara. She had kept, Sandeep Kaur daughter of her sister-in-law, with her. Around 2 years, ago she had got installed Wi-Fi at her house and for the maintenance of said Wi-Fi one Rahul

**CRM-M-53156-2024 (O&M)****2**

Sharma (petitioner herein) used to come to her house. He told her that he belongs to very poor family and his sister is getting married in February and he is in need of money. One day he came to her house along with his mother and asked the complainant to lend some money for the marriage of her daughter and they would return it in installments and also invited her for the marriage. Complainant gave them Rs. 1,00,000/- as loan. She went to marriage of sister of Rahul Sharma and due to which they got close to each other. She remained at their house for 2/3 days to attend marriage ceremonies. Petitioner gave the complainant some intoxicant, took her photographs with him, on his mobile phone. After some days he came to her house and showed her photographs and started blackmailing her to have physical relations or otherwise he would make photographs viral. He also started demanding money from her. Complainant for the sake of her respect started giving him money and he forcibly made physical relation with the complainant. Thereafter, she called her mother Ranjit Kaur to stay with her due to which the visits of Rahul Sharma @ Harry to their house had stopped. On 17.5.2024, in the morning her mother left the house due to some personal work and in the evening she had gone to their neighbours house for some work. Sandeep Kaur daughter of her sister-in-law was alone in the house. At about 10:00 in the evening, aforesaid Rahul Sharma along with his friend Arshdeep Chand came to their house and as the complainant was not in the house, Rahul Sharma @ Harry along with Sandeep Kaur daughter of her sister-in-law came to neighbor house and after coming they caught hold of her arm and started slapping her on her neck. This incident happened in front of my neighbour Navnit kaur. Rahul after threatening the complainant brought her to her house and where he forcibly had physical relation with her and recorded the video of the same on his mobile phone. He threatened her not to disclose



anything to anybody. Rahul Sharma @ Harry to defame the complainant sent her photos and videos to her husband, and she disclosed everything to her mother. On the basis of aforesaid allegations, FIR(supra) was registered.

3. Learned counsel for the petitioner *inter alia* contends that prosecutrix is a mature lady of 36 years of age, whereas the petitioner is 26 of age and both of them were in consensual relationship and petitioner has been falsely implicated in the present case. Even the last alleged incident had taken place on 17.05.2024, however, the FIR(supra) was registered on 22.05.2024. The petitioner is not involved in any other case. The Investigating Agency has already completed the investigation and presented the final report under Section 173 Cr.P.C. before the jurisdictional Court. The petitioner is behind the bars since 22.05.2024.

4. Learned counsel for the complainant opposes the prayer made on behalf of the petitioner on the ground that petitioner has made videography while establishing physical relations with the complainant-prosecutrix and he was blackmailing her on the pretext of circulating that obscene video to her husband and he has taken a sum of Rs. 1,00,000/- from the complainant.

5. Per contra, learned State counsel opposes the prayer made by learned counsel for the petitioner on the ground that there are serious and specific allegations against the petitioner and the prosecutrix has reiterated her allegations against the petitioner in her statement recorded under Section 164 Cr.P.C. before the learned jurisdictional Court.

6. Having heard the learned counsel for the parties and after perusing the record, it transpires that petitioner is behind the bars since 22.05.2024. Out of total 16 prosecution witnesses, none has been examined so far, thus,

**CRM-M-53156-2024 (O&M)****4**

conclusion of trial will take sufficient long time to conclude. Culpability, if any, would be determined at the time of the trial.

A two Judge Bench of Hon'ble Supreme Court in 'Satender Kumar Antil v. CBI' (2022) 10 SCC 51, with respect to prevailing conditions of undertrial prisoner in India has observed:

"6. Jails in India are flooded with undertrial prisoners. The statistics placed before us would indicate that more than 2/3rd of the inmates of the prisons constitute undertrial prisoners. Of this category of prisoners, majority may not even be required to be arrested despite registration of a cognizable offence, being charged with offences punishable for seven years or less. They are not only poor and illiterate but also would include women. Thus, there is a culture of offence being inherited by many of them. As observed by this Court, it certainly exhibits the mindset, a vestige of colonial India, on the part of the investigating agency, notwithstanding the fact arrest is a draconian measure resulting in curtailment of liberty, and thus to be used sparingly. In a demo cracy, there can never be an impression that it is a police State as both are conceptually opposite to each other."

7. In view of the above, the present petition is allowed and the petitioner-Rahul Sharma @ Harry is ordered to be released on regular bail, subject to his furnishing bail bonds/surety bonds to the satisfaction of CJM/Duty Magistrate concerned.

8. Nothing observed hereinabove shall be construed as expression of opinion of this Court on merits of the case and the trial Court shall proceed without being prejudiced by observations of this Court.

(HARPREET SINGH BRAR)
JUDGE

October 29, 2024*Ajay Goswami*

(i)	Whether speaking/reasoned	Yes/No
(ii)	Whether reportable	Yes/No