



CRM-M-59528-2022 (O&M)

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**208 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-59528-2022 (O&M)

DATE OF DECISION : 30.05.2024

PARMOD RAJAK

... PETITIONER

V/S

STATE OF PUNJAB

... RESPONDENT

CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Present: Mr. Jashan Mehta, Advocate for the petitioner.

Ms. Himani Arora, A.A.G., Punjab.

Mr. Nikhil Vats, Advocate for the complainant.

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HARPREET KAUR JEEWAN, J. (ORAL)

1. The instant petition has been filed under Section 438 of the Code of Criminal Procedure, 1973 seeking anticipatory bail in case FIR No.362, dated 12.08.2022, registered under Sections 328, 376(D), 506 IPC and Section 67 of the IT Act, at Police Station Zirakpur, SAS Nagar, Mohali.

2. Learned counsel for the petitioner has submitted that the petitioner has been falsely implicated in this case. The allegations qua making obscene photographs and videos viral are totally false and frivolous. He submits that on the receipt of a complaint, the police of Police Station Zirakpur conducted an enquiry and recorded GD No. 25 dated 23.07.2022

(Annexure P-2) to the effect that the complaint is false and it is a monetary

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dispute. He submits that co-accused Sukhwinder Singh has already been granted regular bail by the learned trial Court vide order dated 13.09.2022. It is also submitted that though medico-legal examination of the complainant was conducted later on but there is no incriminating medical evidence against the petitioner.

3. Learned State counsel has opposed the bail application on the ground that there are allegations of gang rape. The petitioner is still absconding. She, on instructions from SI Jaswant Singh, further informed that during the enquiry, the statements of various persons were recorded on 07.12.2023, who confirmed that the petitioner had sent objectionable photographs on whatsapp group and on their mobile phones. In this regard, memo dated 23.09.2022 was prepared wherein mobile phone of the victim was taken into possession and the said mobile contained the objectionable photographs of the prosecutrix which were made viral by the petitioner and the prosecutrix-complainant received the said photographs from unknown person namely Sumit through whatsapp.

4. I have considered the aforesaid contentions and perused the record.

5. The brief facts of the case are that on 10.07.2022, a complaint was filed by the complainant xx stating that on 28.06.2022, the petitioner who is her neighbourer brought her from Dhanas on the pretext of getting her a job at Zirakpur. However, he brought her to a hotel and gave her sleeping pills and thereafter, made physical relations with her. The petitioner also clicked her objectionable photographs and thereafter, she

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came to know from another neighbourer that the petitioner had made these photographs viral on social media.

6. As per the status report filed on behalf of the Investigating agency, on 12.07.2022 both the parties were called at the police station and an enquiry was conducted and after finding it a monetary dispute, the complaint was filed. Subsequently, on 13.07.2022, the complainant gave another complaint in Police Station Sarangpur, UT on the basis of which Zero FIR dated 25.07.2022 under Sections 376(D), 328, 506 IPC and Section 67 of the IT Act was registered at Police Station Sarangpur, UT and thereafter, the investigation was transferred to District SAS Nagar, Mohali since the place of occurrence i.e. Hotel Chandigarh Highway Zirakpur falls within the jurisdiction of the said police station. It is further contended in the status report that vide DDR No.16 dated 12.08.2022, offence under Section 109 IPC was also added.

7. As per the status report, during the investigation, no entry was found in the register of the Hotel. Neither there was any CCTV footage revealing the presence of the accused and the prosecutrix. However, upon verification of the call details, the location of the petitioner and the prosecutrix was found to be of the same Hotel on 28.06.2022. Since the petitioner and his co-accused have got the said evidence deleted, as such, the offence under Section 201 IPC was added.

8. No doubt both the petitioner and prosecutrix are major and the initial complaint was filed by the police by recording GD No. 25 dated 23.07.2022. However, the said GD was recorded merely by recording the

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statement of the petitioner and the prosecutrix. No detailed enquiry was conducted. After registration of the FIR, detailed investigation has been conducted by the investigating agency. The investigating agency has collected the evidence regarding the objectionable photographs of the prosecutrix being sent by the petitioner to third persons. Regarding the presence of the petitioner and the prosecutrix, despite the fact that an attempt was made to hide their presence by not making an entry in the register, however, the investigating agency had collected evidence to locate the presence of the petitioner and prosecutrix at the disclosed place through tower location of the mobile phones. Investigation is at an initial stage qua the petitioner. There is nothing on record to suggest that there was any monetary dispute *inter se* the petitioner and the prosecutrix.

9. Keeping in view the aforesaid circumstances, detailed allegations in the FIR and the evidence collected during investigation, no ground is made out to release the petitioner on pre-arrest bail. Consequently, the present petition stands dismissed and the interim order dated 20.12.2022 stands vacated.

30.05.2024

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**(HARPREET KAUR JEEWAN)
JUDGE**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No