

CRM-M-7012-2023 (O&M)

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

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**CRM-M-7012-2023.
Decided on: February 14, 2023.**

Sagar

.. Petitioner

VERSUS

State of Haryana

.. Respondent

CORAM : HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

**PRESENT Mr. Parminder Singh, Advocate,
for the petitioner.**

Mr. Vivek Chauhan, Addl. A.G. Haryana.

Mr. Rajesh Goyal, Advocate, for the complainant.

VINOD S. BHARDWAJ, J. (ORAL)

The present second petition has been filed under Section 439 of the Code of Criminal Procedure, 1973, for grant of regular bail to the petitioner in case bearing FIR No.75 dated 07.08.2020, registered under Sections 506/34 of the Indian Penal Code and under Section 67 of the Information Technology Act, 2000 (offence under Section 376 (2) (n) was deleted in the challan) at Police Station Woman, District Panipat.

The FIR in the case in hand was registered on the basis of an application moved by complainant the which reads as under:-

“It is requested that I Rajrani daughter of Krishan Lal

resident of Luxmi Nagar, Israna. We are 2 brother-sister. My brother Kapil's relation was final on 22.10.2017 with Shweta daughter of Tejpal and the marriage between both of them was conducted on 06.12.2017 according to Hindu Rites. From the time of final of relationship between them, my Bhabhi's brother Sagar started visiting our house. Due to which Sagar used to call me telephonically some times. One day Sagar told me that he wants to develop friendship with me but I clearly refused. But Sagar started coming to my University on one pretext or another. On 07.12.2017, according to the tradition, after the marriage Sagar had come to our house alongwith his sister Shweta and my birthday was on that day, therefore we kept awaking till late at night. At that night, when I went to my room for sleeping then Sagar gave me chocolate on the pretext of my birthday then after eating it I felt like intoxicated and Sagar took advantage of that and he raped me. When we went to Karnal on 08.12.2017 then he called me in alone place and informed that he has made video of previous night. Since then he kept on blackmailing me. But in February 2020, Sagar performed marriage with Komal resident of Butchra, District Karnal and on my objection, he gave threatening to make the video viral, due to which I did not inform anything to anyone. Even after marriage of Sagar, one day Sagar gave me threatening to make the video viral and he raped me on 06.03.2020 and 07.03.2020 in the hotel. But due to the fear of video, I did not tell this incident to anyone and I talked to my Bhabhi Shweta and she rather told me to remain silent and told that she will defame me at every place and I remained silent. After that Sagar harassed me more. But on 15 July 2020 when Sagar had come to our house then on getting chance he forcibly entered inside my room and tried to commit rape then I told him that I will make noises and will tell everything to my

brother then Sagar went away from there. That I remained in mental depression for many days and on day of Rakhi, I told everything to my brother. When he talked about this to Sagar then Sagar sent that video to my brother and gave threatening that if you will take any action then I will make this video viral and will defame my family in whole society. With regard to this, my Bhabhi Shweta also made telephonic calls many a times on 05.05.2020 and told about not taking any action and not talking to Sagar in this regard. That on 06.08.2020 also, my Bhabhi made telephonic call on my brother's phone 9468227508 and gave threatening that if we will take any action against her brother then they will defame the honor of my father and he will not be able to show his face anywhere. Hence, it is requested to your goodself that legal action may be taken against them for raping me, recording the video and giving threats to make the video viral.”

The petitioner was taken in custody pursuant to the registration of the case whereupon he was granted concession of bail vide order dated 06.07.2021. However, it was alleged that the petitioner had misused the concession of bail and caused injuries to the complainant. An FIR bearing No.277 dated 15.06.2021 under Sections 201, 307, 354 (C), 376(2), 379B, 452, 506, 511, 365, 458 and 326 of the Indian Penal Code, was registered at Police Station Israna, District Panipat, against the petitioner on account of the aforesaid incident.

An application for seeking cancellation of bail was thereafter filed and vide order dated 06.09.2021, the bail granted to the petitioner was cancelled. The petitioner approached this Court by means of filing a petition

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bearing CRM-M No 26568-2022 which was dismissed as withdrawn vide order dated 11.07.2022 passed by this Court.

Learned counsel appearing on behalf of the petitioner contends that the case is now at an advance stage and that even the statement of the complainant/prosecutrix has already been recorded. He contends that the petitioner has been in custody for a period of almost 1 year and 5 months and the maximum sentence for commission of offence under Section 67 of the Information Technology Act, 2000 itself is three years. He further submits that out of as many as 19 witnesses cited by the prosecution only one witness has been examined and the conclusion of the trial is likely to take some time.

Learned State counsel does not controvert the aforesaid aspects as noticed above. He, however, submits that the concession of bail granted to the petitioner earlier was misused by the petitioner and he caused injuries to the prosecutrix/complainant and that the prosecutrix/complainant shall be put in grave danger in the event of the petitioner being enlarged on bail.

Learned counsel appearing on behalf of the complainant also opposed the grant of bail to the petitioner on the ground that the conduct of the petitioner does not entitle the petitioner for any concession of bail. He, however, does not dispute that the petitioner is already facing trial in the other case and that he has not been granted bail in the said case. Merely because the petitioner is enlarged on bail in the present case would not ipso facto mean that he would be out from custody. It is also not disputed that he has already undergone nearly half the sentence out of the maximum

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sentence prescribed under the Statute for commission of the offence under Section 67 of the Information Technology Act, 2000.

Taking into consideration the totality of the circumstances, the present petition is allowed. The petitioner is ordered to be released on bail on his furnishing requisite bail bond/surety bond to the satisfaction of the Trial Court/Duty Magistrate, concerned. In view of the apprehensions expressed by the counsel for the complainant, it is directed that the petitioner shall not try to contact the petitioner and/or go in the area of Israna and also in the area of Prem Hospital, Panipat. He shall also not threaten or coerce the complainant to compromise the matter or to withdraw the proceedings against him and/or in relation to the prosecution launched by her against the petitioner.

It is made clear that the petitioner shall not extend any threat and shall not influence any prosecution witnesses in any manner directly or indirectly.

The observation made hereinabove shall not be construed as an expression on the merits of the case and the trial Court shall decide the case on the basis of material available.

February 14, 2023.
raj arora

(VINOD S. BHARDWAJ)
JUDGE

Whether speaking / reasoned
Whether reportable

Yes / No
Yes / No