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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.12704 of 2021
DECIDED ON:25th MARCH, 2021

Subhash Chander

.....PETITIONER

VERSUS

State of Haryana

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN.

Present: Mr. Amit Choudhary, Advocate
for the petitioner.

Mr. Deepak Bhardwaj, D.A.G., Haryana.

AVNEESH JHINGAN, J (ORAL)

The matter is taken up for hearing through video conference due to COVID-19 situation.

This petition is filed under Section 439 Cr.P.C for grant of regular bail to the petitioner in case FIR No.354 dated 12.12.2020 registered under Sections 328, 376 and 506 of the Indian Penal Code, 1860 at Police Station Sector 40 Gurugram, District Gurugram.

The FIR was registered as the prosecutrix alleged that her father-in-law after giving some tablets which made her unconscious, did a wrong act and made the videos and clicked her photographs. Thereafter, she was being blackmailed by saying that the photographs and videos would be made viral. The allegations were supported while making statement under Section 164 before the Judicial Magistrate. Two bail applications filed before the trial Court by the petitioner were dismissed.

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The dismissal of the 1st bail application was challenged by the petitioner before this Court by filing *CRM-M No.7830 of 2021*. The application for preponment was moved with a prayer seeking permission to withdraw the petition. The said petition was dismissed as withdrawn vide order dated 05.03.2021. On the same day itself, the petitioner filed third bail application before the trial Court and the same was dismissed vide order dated 08.03.2021. Hence, the present petition.

Learned counsel for the petitioner argues that the prosecutrix has not supported the allegations while deposing before the Court.

Though the complainant is not impleaded as party, Mr. Abhimanyu Singh, Advocate has put in appearance on behalf of the complainant. The counsel submits that he has no objection, if the bail is granted to the petitioner.

Learned counsel for the respondent-State, on instructions from ASI Umed, opposes the bail stating that the allegations are serious. The prosecutrix has supported the allegations in the statement recorded under Section 164 Cr.P.C. The prosecution witnesses have been examined and the matter is now fixed for recording of statement under Section 313 Cr.P.C.

It would be apposite to mention here that a mechanism of withdrawal was adopted by the petitioner to make an another go for seeking bail before the date fixed by this Court. Instead of arguing the matter on the date fixed and bringing to the notice of the Court the alleged change in the circumstances, the earlier bail application was got simply withdrawn and on the same day, the second application was moved before the trial Court.

Be that as it may, the argument that the prosecutrix has not supported the allegations in deposition before the Court, it is not enough to grant bail. The issue with regard to the contradiction of statement under Section 164 Cr.P.C and deposition before the Court, would be a subject matter of trial. Moreover, the trial is at an advance stage.

Suffice it to say that the trial Court will have to weigh all the material and evidence before it. No further observation is made lest it would affect the outcome of the trial.

The petition is dismissed.

Before parting, it would not be out of place to note that the nature of allegations made by the prosecutrix, especially the fact that the objectionable video and photographs were clicked were very serious. Now there appears to be a u-turn. It would be for police authorities, if so advised to look into the said aspect in view of the material available before it.

25th MARCH, 2021
gurpreet

(AVNEESH JHINGAN)
JUDGE

Whether speaking/reasoned *Yes/No*
Whether reportable *Yes/No*