

IN THE HIGH COURT OF HIMACHAL PRADESH,
SHIMLA

Cr.MP(M) No. 1403 of 2020

Date of Decision : 30th September, 2020

Harpreet Singh

...Petitioner.

Versus

State of Himachal Pradesh

...Respondent.

Coram:

The Hon'ble Mr. Justice Anoop Chitkara, Judge.

Whether approved for reporting?¹ Yes

For the petitioner : Mr. Sanjeev Kumar Suri, Advocate.

For the respondent : Mr. Nand Lal Thakur, Addl. A.G. and Mr. Ram Lal Thakur, Asstt. A.G., for the State.

Anoop Chitkara, Judge (oral)

The petitioner, apprehending his imminent arrest on being arraigned as an accused, has come up before this Court under section 438 CrPC, seeking anticipatory bail.

2. Based on the complaint of victim, the Police registered FIR No.101 of 2020, dated 29.7.2020, under Sections, 376, 342, 506, 354 (D), 201 and 34 of Indian Penal Code, 1860, (IPC), Sections 67-A of the IT Act and Section 196 of the Motor Vehicles

¹ **Whether reporters of Local Papers may be allowed to see the judgment?**

Act, in Police Station, Baijnath, District Kangra, Himachal Pradesh, disclosing cognizable and non-bailable offences.

3. The contents of the petition and the status report do not reveal any criminal history.

4. Briefly, the allegations against the petitioner are that the victim informed the Police on 29.7.2020 that two years ago, Harpreet Singh (the present petitioner), took her to his home on the pretext that his wife had delivered a baby and she needed a helping hand and he also offered her money for such job. After that in the evening, she accompanied Harpreet Singh on his bike towards his house. On reaching there, she did not find the wife or the baby and only noticed Lal Chand, the brother of Harpreet Singh. Subsequently, Harpreet Singh offered her cold drink and after consuming that she started feeling unconscious. Thereupon, she told Harpreet that why did he lie to her about his wife's delivery, who was not present at home at that time. Subsequently, both Harpreet Singh and Lal Chand tried to commit rape upon her, but she could not resist due to unconsciousness. After that, they committed rape upon her. In the morning when she woke up she found herself to be nude. She further alleged that when she complained then Harpreet Singh threatened her that in case she reveal it to anybody then, he would kill her. For two years, Harpreet Singh kept on following her and pressurizing her to establish sexual relations with him. However, she did not bother him and would disconnect the phone calls. 3-4 days earlier, Harpreet Singh again called her and told her that in case she did not come to sleep with him, then he would send the obscene video, which he had made while committing rape upon her, to her husband and relatives. Initially, she thought that he was joking and she did not pay

any heed to his demand. But, later on Harpreet told her on phone that he had sent the video on the WhatsApp number of her husband and her relatives. Based on these allegations, Police registered the FIR mentioned above. During investigation, the Police recovered the mobile phone from the victim's family and sent it to Laboratory for testing and report of the Laboratory reveals that they did deduct an obscene video. They have copied it and sent to the Police.

5. The Counsel for the petitioner seeks bail and contends that the accused deserves at least a chance to reform.

6. The contention on behalf of the State is that the offence is heinous in nature and the petitioner should not be enlarged on bail and if this Court grants bail, such order must be subject to conditions, especially of not repeating the criminal activities.

ANALYSIS AND REASONING:

7. The case of Harpreet Singh, the present petitioner is different from that of his brother not only because it was he who was demanding coitus with the victim, but also he allegedly brought her to his home and took opportunity of recording the video and kept the same with him and tried to use it for demanding coitus with her.

8. Although the State Forensic Science Laboratory has extracted the video and handed over the same to the Police, but it would be highly improper for this Court to watch the same. Given above, this Court had asked Mr. Nand Lal Thakur, learned Additional Advocate General to have instructions from the concerned Investigating Officer about the contents of the said video. Therefore, on instructions received from the Investigating Officer, Mr. Nand Lal Thakur, learned Additional Advocate General,

submits that such video reveal that the victim was not aware of the recording of the same. Given above, this video was recorded without her consent.

9. Be that as it may, even otherwise, the allegations of the victim are very specific that Harpreet Singh was demanding coitus with her and was threatening her that in case she does not give into his demand, then he would send the video to her husband and relatives. The victim further alleged that on her refusal to have coitus, the accused sent the video to her husband and also to some of her relatives. Her further allegations are that her husband and children watched that video which would have put her in a very embarrassing situation.

10. In view of the above, the conduct of the petitioner shows that he is not entitled to pre-arrest bail, therefore, the petition is dismissed. Interim protection granted by this Court on 18.8.2020, is recalled with immediate effect.

**(Anoop Chitkara),
Judge.**

September 30, 2020 (KS)