

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

216

CRM-M-11327 of 2015

Date of Decision: May 28, 2015

Dev Bhattacharya

....Petitioner

VS

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA

Present: Mr. Rajesh Lamba, Advocate,
for the petitioner.

Mr. Satish Saini, DAG, Haryana.

TEJINDER SINGH DHINDSA, J. (Oral)

This order shall dispose of the instant petition filed under Section 439 Cr.P.C. seeking benefit of regular bail to the petitioner in case FIR No.45 dated 10.02.2015, registered under Sections 376 and 506 IPC, registered at Police Station Section 31, Faridabad.

Counsel for the parties have been heard.

FIR in question was registered on the statement of Anjali Ghosh. Allegations against the petitioner are with regard to having induced the complainant into developing physical relations on the pretext of marriage. Complainant's version is

that she was induced into physical relations and raped in August 2011 as also in March 2012.

The petitioner has been in custody since 10.02.2015. Investigation having been completed, challan was presented and even charges were framed.

In the considered view of this Court, the present petitioner is entitled to the concession of bail. This view is being taken for the reason that even as per complainant's version marriage between the parties had been fixed and even a date was finalised. Be that as it may, such matrimonial relationship having not fructified, the allegations of rape have surfaced.

Counsel appearing for the petitioner has adverted to the testimony of Anjali Ghosh-prosecutrix recorded before the trial Court where in her cross-examination she stated that she never raised any alarm when accused had committed rape upon her. She further stated that even though she was not mentally agreeable for having sex but on the asking of the accused as regards getting married shortly, she herself became ready to enter into physical relations.

The prosecutrix is an educated lady of 27 years of age. Inducement into physical relations on the pretext of marriage and as to whether offence under Section 376 IPC is

made out would be a moot question to be considered during the course of trial.

That part the prosecutrix herself being the material witness has already been examined before the trial Court.

It is not the case made out on behalf of the State that the petitioner if, granted the concession of bail would be in a position to influence or hamper the course of trial.

Accordingly, the petition is allowed.

Petitioner be enlarged on bail subject to the satisfaction of trial Court/Duty Magistrate, Faridabad.

Disposed of.

(TEJINDER SINGH DHINDSA)
JUDGE

28.05.2015
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