

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

CRM-M-34565-2018

Date of decision:-27.9.2018

Deepak

...Petitioner

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Mr.Pawan Kumar Hooda, Advocate
for the petitioner.

Mr.Gaurav Bansal, AAG, Haryana.

Mr.Deepak K. Sharma, Advocate
for the complainant.

H.S. MADAAN, J.

This petition for regular bail has been filed by petitioner – Deepak – an accused in FIR No.09 dated 24.6.2018, under Sections 376(2)(n), 506 IPC and Section 67 of IT Act, registered at Police Station Women, Sonipat.

Briefly stated, the facts of the case, as per the prosecution story are that the FIR in question was recorded on the basis of written complaint submitted by complainant (name withheld to protect her identity in view of Section 228-A IPC and as per the directions given by

the Hon'ble Apex Court in case titled ***State of Karnataka Vs. Puttaraja, 2004(1) RCR(Cri.) Supreme Court, 113 (SC)*** and referred to as '*the prosecutrix*') daughter of Pardeep Kumar, resident of Hari Nagar, Ganaur to the police wherein she stated that there have been friendly relations between her and the accused for last more than one year; about 2-3 months earlier, Deepak called her near bus-stand, Sonipat and thereafter he took her to a hotel under threat, where without her consent and holding out a threat of killing her family members, he committed sexual intercourse with her, preparing a video film of the incident, subsequently also Deepak committed sexual intercourse with her a number of times without her consent under threat and then he put the video on social media, which went viral. She prayed for taking of necessary legal action against him.

After registration of the FIR, the investigation in the case started and accused was arrested on 25.6.2018. After completion of investigation, challan has been filed against him. He had filed an application for regular bail in the Court of Sessions but the same was dismissed by learned Additional Sessions Judge/Special Judge, Sonipat vide order dated 1.8.2018, therefore, the petitioner has approached this Court for grant of the similar relief.

Notice of the petition was given to respondent – State and counsel representing the State has put in appearance. The complainant has also appeared through counsel.

I have heard learned counsel for the parties besides going through the record.

Learned counsel for the petitioner has argued that the prosecutrix/complainant is a mature adult girl; that she was having a love affair with the accused and she wanted to marry accused and on account of some misunderstanding, she had lodged the FIR; that now the petitioner/accused is ready to contract marriage with the prosecutrix/complainant since misunderstanding between two of them has been removed.

Whereas, the request is being opposed by the State counsel.

The prosecutrix/complainant had appeared in this Court on 19.9.2018 and furnished an affidavit that she and petitioner/accused had decided to get married, however, their relationship was not accepted by their respective families, therefore, the prosecutrix had lodged the FIR; that now the prosecutrix/complainant and petitioner have decided to get married of their own. She has stated that she has no objection, if bail is granted to the petitioner since she and petitioner/accused intend to get married.

Keeping in view the fact that the prosecutrix/complainant is a mature girl of about 23 years and she has admitted having an affair with the petitioner/accused, the FIR being product of some misunderstanding between them, which according to her has since been removed and they have decided to get married, in my considered view in light of the facts and circumstances of the case and considering that the petitioner is behind bars for about three months, though challan has been filed, but completion of trial is likely to take some time, I find that it shall be in the fitness of things, if the petition is allowed.

Accordingly, the petition is allowed. The petitioner be admitted to bail during the pendency of the trial, subject to his furnishing bail bonds and surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate, Sonipat, subject to the following conditions:

- (i) he shall appear in the Court on each and every date of hearing;
- (ii) he shall not give any threat or intimidation to the prosecution witnesses; and
- (iii) he shall not leave India without prior permission of the Court and shall surrender his passport, if he has got one, otherwise to furnish affidavit in that regard.

In addition to that the trial Court may impose any term and condition found suitable to ensure that the petitioner does not abscond and interfere in the trial.

It may be mentioned here that nothing discussed hereinabove shall have any bearing on the merits of the case.

27.9.2018

Brij

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No

(H.S.MADAAN)
JUDGE