

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

CRM-M- 48642-2018 (O&M)

Date of Decision: November 29, 2018

Sandeep

...Petitioner

Versus

State of Haryana

...Respondent

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Aditya Sanghi, Advocate
for the petitioner.

Ms. Gaganpreet Kaur, AAG, Haryana

JAISHREE THAKUR, J. (Oral)

The instant petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case FIR No.83 dated 06.06.2018, under Sections 376 and 452 of Indian Penal Code, registered at Police Station Women Police Station Narnaul, District Mohindergarh, Haryana.

Learned counsel for the petitioner contends that the petitioner herein was taken into custody in the aforesaid FIR on 03.07.2018. It is submitted that the petitioner has been falsely implicated in the present case by relying upon the FSL report dated 27.06.2018 which would reveal that semen could not be detected on the exhibits-1 a, exhibit- 1b, exhibit-1c and

exhibit 1-d while further arguing that it was a forcible rape as contended in the FIR, there would have been injuries reflected in the MLR, which is not evident. It is also argued that an opportunity had also been given to the prosecutrix to put in an appearance, however, she failed to appear and that the conclusion of trial will take sufficient time, therefore, the petitioner is entitled to be enlarged on bail.

Per contra, learned counsel appearing on behalf of respondent-State, on instructions from the Investigating Officer, opposes the grant of regular bail to the petitioner, while submitting that offences alleged against the petitioner are serious in nature, however, she does not dispute the fact that the MLR has been conducted and the FSL report is received and that the prosecutrix though summoned, had failed to appear .

I have heard learned counsel for the parties.

Since, the trial is likely to take some time and in view of the facts that that the petitioner herein has been in custody since 03.07.2018 and that the prosecutrix failed to appear in the trial Court, no useful purpose would be served in keeping the petitioner behind bars. At this stage, without expressing any opinion on the merits of the case, the instant petition is allowed and the petitioner is directed to be released on regular bail on execution of adequate personal bond and surety bond to the satisfaction of concerned trial Court/Duty Magistrate.

However, while allowing the prayer of the petitioner for regular bail, the petitioner is directed not to return to the village/viscinity of the prosecutrix till the statement of the prosecutrix is recorded.

Learned counsel for the respondent-State is also directed to

ensure that the evidence of the prosecutrix is recorded before the CJM
Narnaul on the date so fixed.

November 29, 2018
seema

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes/No