

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

CRM-M No. 45372 of 2019

Date of decision : November 01, 2019

Ajay alias Jony

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM : HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Atul Pratap Dhankar, Advocate for the petitioner.

Mr. Ashok Singh Choudhary, Addl. A.G., Haryana.

GURVINDER SINGH GILL J. (ORAL)

1. Petitioner-Ajay alias Jony, seeks grant of regular bail in a case registered vide FIR No.124, dated 22.03.2019, registered at Police Station Safidon, District Jind, under Sections 323, 354-B, 376(2)(n), 450, 452 and 506 read with Section 34 IPC.
2. FIR was lodged at the instance of the prosecutrix wherein it has been alleged that about six months back she had been raped by Kaku and ever since he had been blackmailing her and had been raping her repeatedly while issuing threats to eliminate her husband in case she discloses about the same to anybody else. It is further alleged therein that on 20.03.2019 on the day of Holi when she was alone at home and her husband had gone out for work and even her in-laws were not present then Kaku, Jony and Neetu entered into her house and attempted to outrage her modesty and when the complainant objected the same, they gave beatings to her and tore her clothes. Later when her husband and in-laws returned home, the complainant narrated the incident to them and upon which her mother-in-law confronted

the parents of the accused. It is further alleged that thereafter the accused came to her house at 10-11 p.m. and gave beatings to all of them.

3. Learned counsel for the petitioner has submitted that it is a case where the complainant has been making improvements in her versions and in fact before the recording of version as recorded in the FIR, she had submitted another application wherein initially no allegation of rape against anybody was levelled. Learned counsel for the petitioner in this regard has referred to the reply to the bail application filed by the State before the trial Court annexed as Annexure P-3. The relevant extract from the said reply reads as follows:

“---. And complainant Babita first gave a complaint on 22.03.2019 regarding her physical assault by trespassing into her house. Same day, after sometime, she again moved a complaint alleging that an attempt to outrage her modesty, physical assault and death threat. Again later that day she gave another (3rd) complaint alleging commission of rape for the first time six months back by accused Rajnish and being consently raped thereafter by accused Rajnish for past six months and on dated 20.03.2019, all the three accused after trespassing into her house, attempted to outrage her modesty, torn her clothes, gave life threats and physically assaulted her. That on submission of third application, complainant, Babita got registered the present FIR No.124 dated 22.03.2019. On 23.03.2019, 164 Cr.P.C. statement of complainant Babita was recorded in the Court of SDJM, Safidon. That complainant Babita in her 164 Cr.P.C. statement stated regarding commission of rape by accused Rajnish three/four days prior to Holi also.---”

4. Learned counsel for the petitioner has further submitted that even if the allegations as levelled in the FIR are taken to be correct still it is apparent that there is no allegation as far as commission of rape is concerned qua petitioner Ajay alias Jony.
5. Opposing the petition, learned State counsel has submitted that since the petitioner is specifically named in the FIR and is alleged to have trespassed into the house of the prosecutrix and attempted to physically molest her and in fact also tore her clothes, no case for grant of bail is made out.
6. I have considered rival submissions addressed before this Court.
7. Having regard to the facts and circumstances of the case and the fact that the allegations of rape are against co-accused Kaku, who is alleged to have raped the prosecutrix for the first time about six months prior to lodging of the FIR and while also noticing that the State in its reply to the bail application filed before the trial Court has taken the stand that the complainant had moved three different applications and had made improvements therein and while also keeping in view the fact that the petitioner is behind bars since last seven months and challan already stands presented and till date only one PW out of cited 15 PWs has been examined, further detention of the petitioner will not serve any useful purpose. The petition, as such, is accepted and petitioner-Ajay alias Jony is ordered to be released on regular bail on his furnishing bail bonds/surety bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate, concerned.

(GURVINDER SINGH GILL)
JUDGE

November 01, 2019

sarita

Whether speaking / reasoned : Yes / No

Whether Reportable: Yes / No