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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M No.24089 of 2020
Date of decision: 27.08.2020

Anoop @ Annu

....Petitioner

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. M.S. Chahal, Advocate
for the petitioner.

Mr. Deepak Grewal, DAG, Haryana.

ARVIND SINGH SANGWAN J. (Oral)

Prayer in this petition is for grant of regular bail to the petitioner in FIR No.130 dated 09.09.2019 registered under Sections 376/506/365 IPC (Section 365 IPC stands deleted) at Police Station Women, Bhiwani, District Bhiwani.

Counsel for the petitioner has argued that though as per the FIR, which is registered at the instance of one 'M' (name not disclosed), her husband has met with an accident and he was admitted in hospital and on that pretext, the petitioner had taken her to a room in Agroha where he committed forcible rape against her wish. Counsel for the petitioner has referred to the statement of the prosecutrix, who appeared as PW6 before the trial Court, wherein in the cross-examination, she has stated that the petitioner had taken her to Dharamshala where both i.e. the petitioner and the prosecutrix, declared that they are newly wedded couple and on enquiry, it was found that in Aadhar Card, name of her father is mentioned and the prosecutrix again disclosed that since she was newly married, her father's name is there in the Aadhar Card.

Counsel for the petitioner has further referred to the examination-in-chief of the cross-examination of the prosecutrix to suggest that the prosecutrix who is aged about 26 years has voluntarily

CASE HEARD THROUGH VIDEO CONFERENCING

accompanied the petitioner and stayed with her in a Dharamshala as the cross-examination suggests 'consensual sex'.

Counsel for the petitioner has further argued that the petitioner is in custody since 24.09.2019; the statement of the prosecutrix has already been recorded and there is no possibility for the petitioner to tamper with the prosecution evidence and in view of the statement made by the prosecutrix, which is to be finally appreciated by the trial Court, no purpose will be served by keeping the petitioner behind the bars.

Counsel for the State has not disputed the factual position but opposed the prayer for bail. It is also submitted that in the statement made under Section 164 Cr.P.C., the prosecutrix has alleged allegation of rape against the petitioner, however, while appearing as PW6, she herself has made the allegation mild by suggesting that she had gone with the petitioner of her own consent.

Without commenting anything on merits of the case, considering the fact that the custodial interrogation of the petitioner is not required; he is in custody since 24.09.2019; the statement of the prosecutrix has already been recorded and the conclusion of the trial will take some time, this petition is allowed and the petitioner is directed to be released on bail subject to his furnishing bail/surety bonds to the satisfaction of the trial Court/Illaq Magistrate/Duty Magistrate.

However, it will be open for the prosecution to apply for cancellation of bail of the petitioner, in case he is found involved in any other case or misusing the concession of bail, in any manner.

(ARVIND SINGH SANGWAN)
JUDGE

27.08.2020

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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No