

208.

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

CRM-M-32885-2020

Date of decision: 04.11.2020

ROHIT KUMAR@ SAHIL

... Petitioner

versus

STATE OF HARYANA

.... Respondent

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr. Parminder Singh, Advocate, for the petitioner.

Ms. Gaganpreet Kaur, AAG, Haryana.

Mr. Sandeep Singh, Advocate, for the complainant.

HARI PAL VERMA, J. (Oral)

The matter has been taken up for hearing through video conferencing due to outbreak of COVID-19.

Prayer in the present petition filed under Section 439 Cr.P.C. is for grant of regular bail to the petitioner in case FIR No.347 dated 06.08.2020 registered under Sections 376, 417, 452, 506 of IPC at Police Station Sector 32-33, Karnal, District Karnal.

The aforesaid FIR was registered at the behest of the prosecutrix. As per the FIR, about 2 years back, she had come to meet her sister Anita wife of Anil Kumar, resident of Gali No.22, Karan Vihar at Karnal. The petitioner used to come to deliver milk in the house of her sister. She got acquainted with the petitioner and one year back when her sister Anita along with the family members had gone out, the petitioner suddenly came to the house of her sister and finding her alone, committed rape on her

against her will. He threatened that in case he tells this fact to anybody, he will kill her. Thereafter the petitioner kept on blackmailing her while giving false assurance of solemnizing marriage with her. On 10.06.2020, the petitioner while blackmailing her, allured her so as to solemnize marriage and took her to Shimla and Pinjore. He forcibly committed rape on her in a hotel at Pinjore. The petitioner has now solemnized marriage with some other lady and in this manner spoiled the life of the prosecutrix.

Counsel for the petitioner states that the petitioner is in custody since 10.08.2020. Earlier the FIR No.325 dated 11.06.2020 under Section 346 IPC Police Station Samalka, Panipat was registered against the petitioner and in this FIR, the prosecutrix appeared before the Magistrate to get her statement under Section 164 Cr.P.C. recorded, wherein she has stated that on 10.06.2020, she being fed up because of beatings given to her by her father, brother and *bhabhi*, had gone to the house of her sister at Karnal and accordingly, FIR was cancelled. Now since the petitioner has solemnized marriage with some other lady, the present FIR has been registered. He submits that now the prosecutrix has improved her version which was made in the initial FIR No.325.

Learned State counsel submits that the petitioner has established physical relations with the prosecutrix on the pretext of solemnizing marriage and instead of marrying with the prosecutrix, he has solemnized marriage with some other lady. In this manner, he has spoiled the life of the prosecutrix.

I have heard learned counsel for the parties.

In the earlier FIR No.325 dated 11.06.2020 registered at the

behest of the father of the prosecutrix, there is no allegation that the petitioner committed rape on her. Thereafter, the prosecutrix having been recovered in the FIR No.325, has made her statement under Section 164 Cr.P.C. wherein she has stated that she was fed up because of beatings given by the father, brother and *bhabhi* and accordingly, on 11.06.2020, she left the house and had gone to the house of her sister. Since the petitioner has solemnized marriage with some other lady, the present FIR has been registered. The petitioner is in custody since 10.08.2020. In her statement under Section 164 Cr.P.C. as recorded in FIR No.325, dated 11.06.2020, there is no allegation of commission of rape on the prosecutrix by the petitioner. In this manner, there is improvement in her subsequent statement recorded under Section 164 Cr.P.C. in the present FIR. In this manner, the culpability of the petitioner is yet to be established during trial and the trial in the case will take sufficient long time. Thus, this Court deems it appropriate to admit the petitioner on bail.

Accordingly, the present petition is allowed and the petitioner is admitted on regular bail subject to his furnishing bail bonds/surety bonds to the satisfaction of trial Court/Duty Magistrate.

The observations made hereinabove shall not be construed as an expression on the merits of the case and the trial court shall decide the case on the basis of available material.

(HARI PAL VERMA)
JUDGE

04.11.2020
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Whether speaking/reasoned?	Yes/No
Whether reportable?	Yes/No