

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

219+101

CRM-M No.1162 of 2021 (O & M)
Date of decision:23.03.2021

Ajay Kumar

... Petitioner

Vs.

State of Haryana and another

... Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Rahul Deswal, Advocate for the petitioner.

Mr. Gurmeet Singh, AAG, Haryana.

Mr. Nonish Kumar, Advocate
for the complainant/respondent No.2.

SUVIR SEHGAL J. (ORAL)

CRM-8673-2021

Application is allowed.

Statement of PW-2 is taken on record as Annexure P-7.

Main Case

Petitioner has filed this petition under Section 439 of Cr.P.C. for grant of regular bail in FIR No.222, dated 10.08.2020 registered for offence under Sections 323, 376, 452, 506 (Section 498-A IPC was added later on), IPC, 1860, at Police Station Ram Nagar, District Karnal, Annexure P-1.

The FIR has been registered on the statement of victim/prosecutrix (named withheld) on the allegation that she married

Amit and two children were born out from the wedlock. Amit used to beat her and Ajay Kumar, her brother-in-law (devar), present petitioner, had bad intentions and on 08.08.2020, he entered her room and sexually assaulted her.

Counsel for the petitioner submits that the FIR was registered by the complainant because of acrimony between her and her husband, who is the elder brother of the petitioner. He submits that on an earlier occasion also, some dispute had arisen between the couple, which was settled by way of a Panchayati compromise on 16.05.2017, Annexure P-2. He has referred to the testimony of the prosecutrix, Annexure P-7, to submit that in her examination-in-chief, she has specifically denied the alleged incident and even denied having submitted any complaint. Rather in her deposition before the Court she stated that her signatures were obtained by the police on the blank papers. Counsel submits that the petitioner is in incarceration since 13.08.2020, the most crucial witness has resiled from the prosecution case and has been declared hostile, therefore, the petitioner deserves to be enlarged on bail.

Per contra, learned State counsel upon instructions from HC Ramhool, has opposed the petition and submitted that the allegation levelled by the prosecutrix in her complaint was supported by her in her statement recorded under Section 164 Cr.P.C. He, however, could not dispute the deposition of the prosecutrix, which has been recorded in Court.

Counsel appearing for the complainant/prosecutrix has supported the petitioner.

I have considered the rival submissions of the parties.

From the analysis of the statement of the prosecutrix, Annexure P-7, it is debatable whether the petitioner is involved in the alleged offence.

Keeping in view the above facts and circumstances, nature of allegations, the period of incarceration and the fact that the trial is likely to take time to conclude, no purpose would be served by keeping the petitioner behind bars any further.

Without commenting anything on the merits of the case, the petition is allowed and the petitioner is ordered to be released on bail on furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate.

23.03.2021

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(SUVIR SEHGAL)
JUDGE

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No