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

CRM-M-2903-2021

Date of Decision: September 07, 2021

Basheer Ahmed

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR.JUSTICE RAJESH BHARDWAJ

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

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RAJESH BHARDWAJ, J. (ORAL)

Matter has been taken up through video conferencing via Webex facility in the light of the Pandemic Covid-19 situation and as per instructions.

The present petition is filed under Section 439 CR.P.C. seeking regular bail to the petitioner in case FIR No.176, dated 19.08.2020, under Section 376 IPC, registered at Police Station Mahilpur, District Hoshiarpur.

Learned counsel for the petitioner contends that the prosecutrix is 30 years of age and mother of four children. She has lodged FIR, Annexure P-1, on the basis of false allegations. It was alleged in the FIR that the prosecutrix went to the field where she was raped by the petitioner, who has been named in the FIR categorically. On the basis of the FIR, the investigation was conducted, challan was filed and the trial commenced. Learned counsel for the petitioner vehemently contends that allegations in the FIR are totally false and frivolous and the petitioner has been falsely implicated. He further contends that the same is proved from the fact that

now the prosecutrix has been examined wherein she has deposed that when they went to the field, there were two unidentified persons and petitioner was not the person, who committed rape upon her. As a result, she had been declared hostile. It is further submitted that the prosecutrix is major and she has not supported the case of the prosecution, hence incarceration of the petitioner, who is behind bars since 06.09.2020, i.e. almost for the last one year, is unwarranted.

Notice of motion.

On the asking of the Court, Mr.M.S.Nagra, Assistant Advocate General, Punjab, accepts notice on behalf of the State, whereas Mr.Md.Salim, Advocate, puts in appearance on behalf of the complainant and opposes the contentions raised by the petitioner and submits that rest of the witnesses are yet to be examined and thus, no case for bail is made out.

Learned State counsel submits that prosecution has cited 15 prosecution witnesses out of which only prosecutrix has been examined. However, he is not in a position to deny that the prosecutrix has not supported the case of the prosecution.

Heard learned counsel for the parties.

In totality of the facts and circumstances, I find that petitioner is languishing in jail since 06.09.2020. Fourteen witnesses are yet to be examined, which would take some time for conclusion of the trial. As a result, I find that counsel for the petitioner has made out a case for grant of bail to the petitioner.

Application is allowed.

Bail to the satisfaction of trial Court/Duty Magistrate

concerned.

Nothing stated hereinabove shall be construed as an expression of opinion on the merits of the case.

September 07, 2021
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(RAJESH BHARDWAJ)
JUDGE

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| 1. | Whether speaking/reasoned ? | Yes/No |
| 2. | Whether reportable ? | Yes/No |