

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-5075-2021 (O&M)
Date of decision: - 09.02.2021

Sandeep

....Petitioner

Versus

State of U.T. Chandigarh

.....Respondent

CORAM : HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present:- Mr. Ashit Malik, Advocate
for the petitioner.

Mr. Ashu Mohan Punchhi, Advocate
and Mr. Anupam Bansal, Advocate
for the respondent-U.T. Chandigarh.
(keeping in view the advance copy given).

(Through Video Conferencing)

HARSIMRAN SINGH SETHI, J. (ORAL)

CRM-2739-2021

Application is allowed, as prayed for.

CRM-M-5075-2021

Present second petition has been filed under Section 439
Cr.P.C for the grant of regular bail to the petitioner in respect of FIR
No.159 dated 16.08.2020, under Section 376 IPC, registered at Police
Station Industrial Area, U.T., Chandigarh.

Learned counsel appearing for the petitioner submits that the sexual act being attributed to the petitioner as rape was in fact a consensual act and the petitioner and the prosecutrix are known to each other and she had been coming to Chandigarh often to meet him. Learned counsel for the petitioner further submits that the above averment can be examined from the fact that the petitioner and the prosecutrix went to a particular hotel to get a room and on being denied the facility of a room in the said hotel, they went to another hotel, where the said act was performed. Learned counsel for the petitioner further submits that the prosecutrix has been changing her statement as initially in the FIR, it was alleged that intercourse took place in the said hotel, whereas while being medically examined, she had changed her statement and refused internal examination.

Learned counsel for the petitioner argues that the allegations that the petitioner had promised a job of Tehsildar to the prosecutrix is falsified from the fact that the prosecutrix is only 12th pass and under no circumstance she could have been appointed as Tehsildar as being alleged in the FIR. Learned counsel for the petitioner further states that the challan has already been presented and the investigation is also over and the trial is likely to take some time before it concludes and therefore, the petitioner be granted the benefit of regular bail.

Notice of motion.

Mr. Ashu Mohan Punchhi, Advocate and Mr. Anupam Bansal, Advocate, who have joined the proceedings through video conference, keeping in view the service of advance copy of petition,

accepts notice on behalf of the respondent-U.T., Chandigarh.

Custody certificate filed by learned State counsel today in the Court is taken on record.

Learned counsel for the respondent concedes that the allegations in the FIR alleged by the prosecutrix have been changed by her while she was being medically examined as well as the fact that petitioner and prosecutrix visited more than one hotel to secure a room on the date of occurrence.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

The allegations which have been alleged against the petitioner are yet to be proved, though certain facts qua discrepancy in the statement of the prosecutrix, which have been noticed hereinbefore, have come on record. Whether those facts are material or not will be proved during the trial, but keeping in view the facts and circumstance of the present case as the trial is likely to take some time and the petitioner is behind the bars for the last more than 5½ months, the petitioner has made out a case for the grant of regular bail.

In view of the above and without commenting upon the merits of the case, it is directed that the petitioner be released on regular bail, if not required to be detained in any other case, subject to the satisfaction of the trial Court/Duty Magistrate concerned.

Learned counsel for the petitioner undertakes that petitioner will not influence trial in any manner including influencing the witnesses and in case of default of the above undertaking, State will be at liberty to

approach this Court for passing appropriate orders.

However, it is made clear that anything observed herein shall not be construed to be an expression of any opinion on the merits of the case.

February 09, 2021
naresh.k

(HARSIMRAN SINGH SETHI)
JUDGE

Whether reasoned/speaking?	Yes
Whether reportable?	No