

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

CRM-M-8187-2021

Date of Decision: 25.02.2021

Sandeep Sahu

....Petitioner

VERSUS

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Shokeen Singh Verma, Advocate for the petitioner.

Mr. Kanwar Sanjiv Kumar, AAG, Haryana.

MANOJ BAJAJ, J. (Oral)

Petitioner has filed this petition under Section 439 Cr.P.C. for grant of regular bail pending trial in case FIR No.665 dated 04.09.2020, under Sections 346 and later on added 341, 344, 376 (2) (N), 365, 506 IPC and Sections 25, 54 and 59 of Arms Act, 1959 registered at Police Station Bhiwani Sadar, District Bhiwani. The petitioner is in custody since his arrest on 20.09.2020.

The allegations contained in the FIR as noticed by the Additional Sessions Judge, (Exclusive Court), Bhiwani in his order dated 11.01.2021, are as under:

“On 04.09.2020, complainant came to the police station and moved a written complaint alleging that on that day his wife who was working in Civil hospital, Bhiwani was returning to the house but did not return and near Village Prahladgarh, only her scooty was found. He prayed for searching his wife. His wife had fair complexion, was aged about 28 years and had healthy physique with height of 5'4”. She was wearing green colour suit-salwar. On these allegation, formal FIR was registered under Section 346 IPC.”

Learned counsel for the petitioner submits that FIR was lodged on the complaint made by one Rajesh Kumar S/o Gopiram regarding missing of his wife, namely, Mohini Devi, who alleged that the scooty bearing No. HR16N-2633 which is used by his wife was found abandoned on 04.09.2020. Later on Sections 341, 344, 376(2) (N) 365, 506 of Indian Penal Code, 1860 and 25, 54 and 59 of Arms Act, 1959 were added on the ground that petitioner abducted the prosecutrix, Mohini Devi along with accomplices and took her to Nainital and committed rape on her.

Learned counsel for the petitioner submits that statement of the victim recorded under Section 164 Cr.P.C. cannot be attached significance, as the statements (Annexures P-4 to P-6), of other prosecution witnesses have suggested that the victim wilfully accompanied the petitioner, who were known to each other and worked at the same place. He further submits that the investigation of the case is complete, and, therefore, custodial interrogation of the petitioner is not necessary.

Learned State counsel assisted by ASI Neetu Bala opposed the prayer on the ground that the offence is serious in nature and the victim has specifically named the petitioner. He further submits that the petitioner is the only accused and no other suspect was associated in the investigation. He further submits that the final report was filed on 18.12.2020 and charges were framed in the case on 04.02.2021, but, no prosecution witness has been examined till date.

After hearing the learned counsel for the parties and considering the above background, this Court finds that the petitioner was arrested on 20.09.2020, however, the trial is yet to commence as after framing of charges on 04.02.2021, no prosecution witness has been examined.

Admittedly, the petitioner is presently confined in judicial custody and the detention of the petitioner behind the bars may not serve any useful purpose.

Resultantly, without meaning any expression of opinion on the merits of the case, it is ordered that the petitioner be released on regular bail subject to his furnishing requisite bail bonds/surety bonds to the satisfaction of the trial Court concerned.

The petition is allowed.

February 25, 2021
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(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No