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

**CRM-M No.17460 of 2021
Date of Decision: 28.06.2021**

KAMAL KANT

.....Petitioner

Vs

STATE OF HARYANA

.....Respondent

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present:Mr. Kunal Dawar, Advocate
for the petitioner.

Mr. Bhupender Singh, D.A.G., Haryana.

RAJ MOHAN SINGH, J.(Oral)

The case has been taken up for hearing through video conferencing.

Petitioner seeks grant of regular bail in his second attempt under Section 439 Cr.P.C in case bearing FIR No.97 dated 17.08.2020, registered under Sections 376, 450, 506 IPC at Women Police Station, Sector 16, Faridabad (P.S. Women Central, Faridabad) District Faridabad. (Challan presented under Section 376(2)(n), 450, 506 IPC.

Earlier CRM-M No.31555 of 2020 was dismissed as withdrawn with a liberty to the petitioner to approach the trial

Court for grant of regular bail in view of changed circumstances. Now the petitioner has approached again after dismissal of the application for grant of bail by the Addl. Sessions Judge, Fast Track Court, Faridabad on 09.04.2021.

Learned counsel for the petitioner submitted that the prosecutrix was on talking terms with the petitioner, who was staying in the same rented accommodation. In respect of occurrence dated 17.06.2020, the FIR came to be registered after two months i.e. on 17.08.2020 as the prosecutrix did not tell anything to her husband due to fear and shame. After two months, she told the story to her husband and FIR was registered.

Learned counsel further submitted that the prosecutrix and her husband have been examined before the trial Court as PW-1 and PW-2 and they have not supported the case of prosecution in any manner and have been declared as hostile. No incriminating material could be extracted from their cross-examinations. The bail has been declined due to the examination of the prosecution under Section 164 Cr.P.C. After examination of the prosecutrix and her husband on oath before the trial Court including the cross-examination, the statement under Section 164 Cr.P.C. would not be significant as the same could be used only for corroboration and contradiction. The

substantive piece of evidence is the statement of prosecutrix before the trial Court.

The factum of cross-examination of prosecutrix and her husband before the Court as PW-1 and PW-2 has been admitted by learned State counsel. The medical examination, if conducted after the occurrence would remain subject to judicial scrutiny of the Court. Petitioner is in judicial custody since 02.09.2020. Prosecution is leading its evidence. Trial of the case may take sometime in its conclusion.

At this stage, without adverting to the merits of the case, I deem it appropriate to enlarge the petitioner on regular bail.

In view of above, petition is allowed. Petitioner is ordered to be released on bail, subject to his furnishing adequate bail bonds/surety bonds to the satisfaction of the trial Court/concerned Duty Magistrate.

Nothing expressed hereinabove would be construed to be an expression of any opinion on merits of the case.

(RAJ MOHAN SINGH)
JUDGE

June 28, 2021

Atik

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No