

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

CRM-M-17190-2021 (O&M)

Date of decision: 29.09.2021

Anil

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR.JUSTICE H.S. MADAAN

Present: Mr. R.K. Saini, Advocate for the petitioner.

Ms. Shubhra Singh, Addl. A.G., Haryana.

H.S. MADAAN, J. (Oral)

This second petition for regular bail has been filed by petitioner Anil, an accused in FIR No.881 dated 17.10.2019, for offences under Sections 328, 376, 384, 506 IPC and Section 67 of the Information Technology (Amendment) Act, 2008, registered with Police Station Karnal City, District Karnal, the first petition having been filed by him bearing No.CRM-M-12703-2020 was dismissed as withdrawn, vide order dated 03.06.2020. Now this petition has been filed for the reason that statements of the prosecutrix/victim and the complainant have since been recorded, wherein they have not supported the prosecution story.

Briefly stated the facts of the case as per prosecution story are that, on 24.06.2018, prosecutrix/victim (name and other particulars withheld) accompanied by her mother had gone to Khatu Shyam Ji; their neighbour Manju accompanied them upto Delhi and thereafter, she called

her son Anil (present petitioner); Manju and Anil had gone with the prosecutrix/victim and her mother upto Khatu Shyam Ji; on the way, Anil represented that he was a tantrik; thereafter, the prosecutrix/victim and her mother returned home on 26.06.2018; petitioner Anil started speaking to the prosecutrix/victim on her mobile phone; in the month of August, 2018, on inducement being given by Anil, the prosecutrix/victim went to Karnal, where the petitioner took him to a guest house, made her drink some water after consuming which, she became unconscious; in that state, Anil had raped her; subsequently, he showed her nude photographs to the prosecutrix/victim and started blackmailing her; on subsequent occasions also, he committed sexual intercourse with her without her consent and against her wishes under threat of making her nude photographs viral; on complaint being made to the police, formal FIR in the matter was recorded; the accused was arrested in this case on 18.10.2019; after completion of investigation and other formalities, challan was filed against him in the Court; on framing of formal charge, the case was fixed for recording of prosecution witnesses.

Petitioner-accused Anil had filed a petition for regular bail before the Court of Sessions at Karnal but was unsuccessful. As such, he has come to this Court craving for grant of similar relief, which request is being opposed by the State counsel.

I have heard learned counsel for the parties besides going through the record.

The statement of prosecutrix/victim, who is a star witness for the prosecution is said to have been recorded, so has been statement of

her mother; certified copies of those statements have been placed on record by learned counsel for the petitioner. A perusal of such statements goes to show that neither the prosecutrix/victim nor her mother have toed the line of prosecution, the prosecutrix/victim in her statement recorded on 03.08.2021 has not stated even a single incriminating thing against the accused, rather, she stated that petitioner/accused never committed rape upon her. She was declared a hostile witness with an opportunity being granted to the State counsel to cross-examine but she stuck to her guns. Her mother appearing as PW-2 in her statement stated that she does not know anything about this case and her daughter never told her anything about the incident. Such material witnesses for the prosecution having resiled and the petitioner being behind bars for a period of almost 02 years, I find that it would be proper and appropriate to grant him concession of regular bail, since there is no occasion for him to make efforts to tamper with the prosecution witnesses by giving threat or inducement to them and furthermore, since the witnesses left to be examined are of such type whose statements are of corroborative nature. The recording of statements of such witnesses may take considerable time, more particularly, when the proceedings in the Courts have been adversely affected on account of outbreak of COVID-19. Therefore, the petition is accepted. The petitioner is ordered to be released on bail on his furnishing bail bonds and surety bonds to the satisfaction of trial Court/CJM/Duty Magistrate, Karnal, subject to the following conditions:-

- (i) he shall appear in the Court on each and every date of hearing;
- (ii) he shall not give any threat or intimidation to the prosecution witnesses;

- (iii)he shall not indulge in any criminal activity;
- (iv)he shall not leave India without prior permission of the Court and shall surrender his passport, if he has got one, otherwise to furnish affidavit in that regard;

In case the petitioner violates any term and condition on which the bail has been granted to him, the prosecution would be entitled to apply for cancellation of bail.

29.09.2021
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(H.S. MADAAN)
JUDGE

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No