

214

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-18361-2021

Date of decision : 26.07.2021

Surma

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM : HON'BLE MR.JUSTICE RAJESH BHARDWAJ

Present: Ms. Alisha Soni, Advocate
for the petitioner.

Mr. B.S. Virk, DAG, Haryana.

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 grant of regular bail in FIR No.222 dated 12.04.2020 registered under Section 346 of the Indian Penal Code (Sections 366 and 376(2) (n) IPC) added later on) at Police Station Samalkha, District Panipat.

Learned counsel for the petitioner contends that petitioner is behind bars since 23rd August, 2020 and has been falsely implicated in the FIR. She further contends that the present FIR was lodged by father of the prosecutrix and initially it was under Section 346 IPC whereas later on Section 376-D etc. were added. However, Sections 376-D, 346 and 34 IPC were deleted and at present, FIR is under Sections 376(2)(n) and 366 IPC

only.

Learned counsel for the petitioner has drawn the attention of this Court to the affidavit of the prosecutrix wherein she has not supported the case of the prosecution. Besides this, she submits that the prosecutrix is 28 years of age and a major and therefore, no offence as alleged in the FIR is made out, as it is a case of consensual relationship at the worst.

Learned State counsel submits that there are 13 witnesses out of which 03 witnesses have been examined. He further submits that father of the prosecutrix who is the author of the FIR has already been examined and he has not supported the case of the prosecution.

In the totality of the facts and circumstances of the case and keeping in view the custody period undergone by the petitioner, I find that learned counsel for the petitioner has succeeded in making out a case for bail to the petitioner. The present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail/surety bonds to the satisfaction of the concerned trial Court/Duty Magistrate. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

(**RAJESH BHARDWAJ**)
JUDGE

26.07.2021
m. sharma

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