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

CRM-M-18381-2021

Date of decision : 20.05.2021

Shahrukh

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE G.S. SANDHAWALIA

Present: Mr. Mazlish Khan, Advocate for the petitioner.

Mr. R.K.S. Brar, Addl. A.G. Haryana.

(The proceedings are being conducted through video
conferencing, as per instructions)

G.S. SANDHAWALIA, J. (ORAL)

The petitioner seeks regular bail in case FIR No.17 dated 16.01.2021 registered under Sections 342, 354, 365, 376, 452 of the Indian Penal Code, 1860 at Police Station Sadar, Nuh, District Nuh (Haryana).

Counsel for the petitioner has submitted that from the reading of the FIR, it is clear that this is the case of consent as such earlier incident was never reported. It is, thus, submitted that since the petitioner had gone to the house of complainant and was caught red handed as such the allegations have been made of rape etc. for which there is no such proof, since earlier incident as such had taken place three months ago in October, 2020. It is submitted that the petitioner was badly beaten up and suffered as many as 21 injuries on his person alongwith one of unnatural sex. Reference is also made to order passed by CJM/Duty Magistrate dated 16.01.2021, wherein it is mentioned that MLR as such of the accused was conducted on 1:40 am at CHC Nuh.

Counsel for the State has opposed the bail on the ground that the petitioner can threaten the material witnesses as the case is fixed for prosecution evidence. It is admitted that the prosecutrix is stated to be more than 18 years old. Allegations as such are of rape by a single person in the agricultural field and of confining her as captive for approximately 6-7 hours.

Apparently, on 15.01.2021, the petitioner as such had in the evening at about 5 PM, gone near the house and entered in the house (back side way from the side of Pokhar) of the complainant and thereafter tried to take the complainant to the field. Thereafter, the petitioner was beaten up badly as noticed above and there are 21 injuries on his person and thus it seems to be the prima facie case as such of a relationship of young couple was discovered by the family members, due to which the complainant had lodged the FIR against the petitioner.

Accordingly, keeping in view the fact that the investigation is still incomplete and trial will take considerable time in view of situation arising out of pandemic COVID-19, and the petitioner is in custody since last five months, resultantly, the petition is allowed. The petitioner shall be released on bail on furnishing bail bonds/surety bonds to the satisfaction of the concerned CJM/Illaq Magistrate. Anything observed herein is only for the purposes of deciding the present petition.

20.05.2021*Pawan***(G.S. SANDHAWALIA)
JUDGE****Whether speaking/reasoned:- Yes/No****Whether reportable:- Yes/No**