

CRM-M-18692-2021

Date of Decision: 26.8.2021

Akshay Sharma

..... Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Aman Pal, Advocate, for the petitioner.

Mr. Manish Bansal, Deputy Advocate General, 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 petitioner has approached this Court by way of seeking grant of regular bail in case FIR No.104, dated 07.02.2020, registered under Sections 376, 506 of IPC and under Sections 66 (E), 67 (A) I.T. Act at Police Station Chandani Baagh, District Panipat.

It has been contended that the prosecutrix in this case is major and as alleged that she was a student of B.Tech in Geeta Engineering College, Panipat since 2014 and the petitioner took her to the hotel Mid Way forcibly and committed bad act with her and clicked her some objectionable photographs.

Learned counsel for the petitioner has submitted that both the petitioner and the complainant-prosecutrix are major and their relationship was consensual and by no stretch of imagination, offence under Section 376 IPC is made out. He has drawn the attention of this Court to whatsapp chats between the prosecutrix and the petitioner, which show the long standing

and consensual relationship between the complainant-prosecutrix. He submits that the petitioner is behind bars since 26.12.2020. This Court after hearing both the parties had been adjourning the case for examination of prosecution witnesses, specially the prosecutrix before the trial Court. On the last date of hearing, it was emphatically directed that prosecutrix be examined on the date adjourned before the trial Court. However, today when the case was taken up for hearing, it has been submitted that despite repeated efforts by the police, the prosecutrix is not traceable for her examination before the trial Court.

Learned State counsel though opposes the contentions raised by the counsel for the petitioner, however, he submits that the prosecutrix is not traceable and her bailable warrants have been issued. He further submits that the petitioner is working in Dubai and there is every apprehension that he may leave the country during the pendency of the trial.

I have heard both the counsel for the parties and perused the record.

There is no gain saying that both the petitioner and the prosecutrix are major and the petitioner is behind bars since 26.12.2020 and despite efforts by the prosecution, the prosecutrix is not traceable.

In the over all facts and circumstances of the case, I find no reason to deny the bail to the petitioner.

Without commenting upon the merits of the case, I find it appropriate case for grant of bail when the petitioner is behind bars since 26.12.2020, so further incarceration of the petitioner is unwarranted.

Accordingly, the present petition is allowed and the petitioner is ordered to be

released on bail 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.

The petitioner is directed to surrender his passport before the trial Court at the time of furnishing his bail/surety bonds.

(RAJESH BHARDWAJ)
JUDGE

26.8.2021
sharmila

Whether Speaking/Reasoned	:	Yes/No
Whether Reportable	:	Yes/No