

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

207

**CRM-M-19070-2020
Date of decision: 04.03.2021**

Jaspal

.....Petitioner

Versus

State of U.T., Chandigarh and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Pankaj Bali, Advocate
for the petitioner.

Mr. Ashu Mohan Punchhi, Public Prosecutor with
Mr. Anupam Bansal, Addl. Public Prosecutor
for respondent No.1-U.T., Chandigarh.

Mr. Saurabh Arora, Advocate
for respondent No.2-complainant.

ARUN KUMAR TYAGI, J (ORAL)

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

The petitioner has filed the present (first) petition under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail in case FIR No.129 dated 14.09.2019 registered under Sections 376(2) and 506 of the Indian Penal Code, 1860 at Police Station Sarangpur, Chandigarh.

The petition has been opposed by the learned Public Prosecutor for U.T., Chandigarh in terms of status report filed by way of affidavit of Jasbir Singh, Inspector/SHO, P.S.-Sarangpur, U.T., Chandigarh.

Custody certificate has also been filed by the learned

Public Prosecutor for U.T., Chandigarh through e-mail print out of which is taken on record.

The petition has also been opposed by respondent No.2-complainant in terms of reply filed by way of her affidavit in the Registry of this Court which is taken on record.

I have heard learned Counsel for the petitioner, learned Public Prosecutor for U.T., Chandigarh and learned Counsel for respondent No.2-complainant and gone through the relevant record.

Learned Counsel for the petitioner has submitted that the petitioner has been falsely implicated in the case. Respondent No.2-complainant is a married lady aged about 36 years. There was undue, unreasonable and unexplained delay of about two years in filing of the complaint. In the first complaint dated 03.07.2019, respondent No.2-complainant did not make any allegations regarding committing of rape on her by the petitioner. During enquiry on the said complaint, the concerned police officials demanded money and when the petitioner refused to give money, the concerned police officials took another complaint dated 06.07.2019 from respondent No.2-complainant in which allegations of rape and making nude videos were levelled. To pressurize the petitioner for extorting money, name of Gurpal Singh real brother of the petitioner was also dragged in the complaint. No photograph or nude video as claimed by respondent No.2-complainant surfaced during investigation. There is no evidence to corroborate the version of respondent No.2-complainant as to threat from the petitioner. Medico legal report of respondent No.2-complainant did not incriminate the petitioner for commission of any forcible act of sexual

intercourse with her. Challan has been filed and charges have been framed but the prosecution evidence is yet to commence. The petitioner is in custody since 30.10.2019. The trial is likely to take long time due to restrictions imposed to prevent the spread of Covid-19 and no useful purpose will be served by further detention of the petitioner in custody during trial. Therefore, the petitioner may be granted regular bail.

On the other hand, learned Public Prosecutor for U.T., Chandigarh and learned Counsel for respondent No.2-complainant have submitted that the petitioner committed rape on respondent No.2-complainant. Statement of the prosecutrix is yet to be recorded. If the petitioner is granted bail, then he may criminally intimidate respondent No.2-complainant. In view of nature of accusation, gravity of the offence and apprehension of criminal intimidation of respondent No.2-complainant, the petitioner does not deserve grant of regular bail. Therefore, the petition may be dismissed.

Keeping in view the facts and circumstances of the case, nature of accusation and evidence against the petitioner, delay in lodging of the complaint, omission of allegation of rape in the first complaint made by respondent No.2-complainant, the period of custody of the petitioner and the fact that the trial is likely to take long time due to restrictions imposed to prevent the spread of infection of Covid-19, but without commenting on the merits of the case, I am inclined to extend the concession of regular bail to the petitioner.

In view of the above, the petition is allowed and the petitioner is ordered to be released on regular bail on furnishing of

personal and surety bonds to the satisfaction of the trial Court/Chief
Judicial Magistrate/Duty Magistrate concerned.

04.03.2021

(ARUN KUMAR TYAGI)
JUDGE

Vinay

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No