

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

(231)

CRM-M-23364-2021

Date of Decision: 23.08.2021

(Heard through VC)

RAKESH @ SUNNY

...Petitioner

Versus

STATE OF HARYANA

...Respondent

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. Krishan Singh, Advocate
for the petitioner.

Mr. Dhruv Sihag, AAG, Haryana.

Mr. Diwan S. Adalkha, Advocate
for the complainant.

JAISHREE THAKUR, J. (Oral)

The instant petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in FIR No. 29 dated 31.01.2021 under Sections 366, 376, 120-B of IPC registered at Police Station Chappar, District Yamuna Nagar.

Learned counsel for the petitioner would contend that the petitioner has been falsely implicated in the FIR and that no offence under Section 376 IPC is made out against the petitioner and initially an FIR was registered only under Section 366 of IPC. It is further argued that the police moved an application to have the victim medico legally examined but the victim did not give her consent for the same. It is argued that the husband

of the petitioner was also present at the relevant time. Apart from that, it is argued that the prosecutrix left voluntarily in the company of the petitioner herein and they remained together with effect from 31st of January 2021 to the 2nd of February 2021 during which time, no hue and cry was made by her and the FIR has been lodged only to extort money from the petitioner. It is also submitted that the victim is a major and a married women and having a five year old child. It is argued that the matter has been investigated and the *challan* stands presented and therefore the custodial interrogation of the petitioner would no longer be required.

However, learned counsel for the respondent-State opposes the grant of regular bail to the petitioner by contending that Section 376 IPC has been invoked based on the statement made by the prosecutrix under Section 169 Cr.P.C.

I have heard learned counsel for the parties and have also perused the paper book.

The trial is likely to take some time to conclude owing to present COVID-19 pandemic situation. Considering the fact that there is no medical evidence at the moment to support the plea of the offence of rape as the prosecutrix had specifically denied for getting any medical done, this Court deems it appropriate to allow the concession of regular bail to the petitioner at this stage.

The instant petition is allowed and the petitioner is directed to be released on regular bail on his execution of personal/surety bonds to the satisfaction of concerned trial Court/Duty Magistrate. However, any observation made herein shall not be construed to be an expression on merits of the case.

Needless to say the petitioner herein would not make any attempt to contact the prosecutrix/victim in any manner whatsoever who is currently residing with her husband.

(JAISHREE THAKUR)
JUDGE

23.08.2021
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Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No