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

**CRM-M No.24479 of 2021(O&M)
Date of Decision: 06.07.2021**

Roop SinghPetitioner
Vs
State of HaryanaRespondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present:Mr. Rakesh Nagpal, Advocate
for the petitioner.

Mr. Rajat Gautam, DAG, Haryana.

RAJ MOHAN SINGH, J.(Oral)

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

Petitioner seeks grant of regular bail in his second attempt under Section 439 Cr.P.C in case bearing FIR No.307 dated 06.11.2020 registered under Sections 365, 376(1), 376 (D), 450, 506 and 34 IPC at Police Station Sadar Ratia, District Fatehabad.

As per allegations, the prosecutrix was married to Harpreet about 10 years ago. She had two children from the wedlock. The allegations are that the husband of the complainant had gone to Bathinda for putting up the pipeline.

On 05.11.2020, brother-in-law of the complainant Gupreet had gone to the field for irrigating the water and he left the door of the house open. Complainant woke up in the night for the purpose of going to bathroom, then she saw that the main gate was open. When after urinating, she went to shut the main gate, the petitioner and Resham suddenly appeared on motorcycle and made her to seat on the motorcycle and took her to the fields. Resham came back while leaving the petitioner with the prosecutrix. Petitioner committed rape upon the prosecutrix and thereafter, he left the prosecutrix at home at about 3:00 AM. The accused also gave threats to the prosecutrix that in case, she tells anyone, she will be put to death. The FIR was registered with these allegations.

The statement of the prosecutrix under Section 164 Cr.P.C was also recorded. In CRM-M No.9989 of 2021, the trial Court was directed to record the statement of the victim before the next date of hearing i.e. 15.03.2021. The trial Court has recorded the statement of the victim on 16.04.2021. CRM-M No.9989 of 2021 was ultimately got dismissed as withdrawn on 20.04.2021.

Learned counsel for the petitioner submits that on the day of withdrawal of the earlier petition on 20.04.2021, the statement of the prosecutrix was not readily available and the

same was not attached.

Perusal of the statement of the victim/prosecutrix would show that she has not supported the case of the prosecution and has been declared hostile. The cross-examination of the prosecutrix has not yielded any incriminating material against the petitioner. Petitioner is in custody since 07.11.2020. Only 3 prosecution witnesses out of total 11 witnesses have been examined so far. The trial of the case may take some time in its culmination.

Learned State counsel, however, opposed the bail on the premise that the prosecutrix has supported the occurrence in her statement under Section 164 Cr.P.C. The factum of the victim/prosecutrix turning hostile is also an admitted fact.

Looking to the aforesaid facts and in view of the situation arising out due to COVID-19 pandemic, I deem it appropriate to enlarge the petitioner on regular bail without adverting to the merits of the case,

In view of above, petition is allowed. Petitioner is ordered to be released on regular bail, subject to his furnishing adequate bail bonds/surety bonds to the satisfaction of the trial Court/concerned Duty Magistrate.

Nothing expressed hereinabove would be construed to

be an expression of any opinion on merits of the case.

06.07.2021	(RAJ MOHAN SINGH)
Prince	JUDGE
Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No