

220

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

CRM-M No. 24903 of 2021
Date of Decision: 09.07.2021

Yashpal Ahuja @ Monu

-Petitioner

Vs

State of Punjab

-Respondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Amit Sharma, Advocate,
for the petitioner.

Mr. Amar Ashok Pathak, Addl. A.G., Punjab.

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.0138 dated 26.05.2020 under Section 376 IPC registered at Police Station City Malout, District Sri Muktsar Sahib, Punjab.

FIR was registered at the instance of prosecutrix Kulwinder Kaur with the allegations that she is serving as a maid in different houses. Her marriage was solemnized 21 years ago. Two sons took birth out of this wedlock. After 05 years of marriage, there used to remain some matrimonial dispute as her

husband was a drug addict. Due to some matrimonial differences, the prosecutrix dissolved her marriage by way of divorce about 15 years ago and thereafter, she started residing at her parental house. On 09.05.2020, she was living as a tenant in the house of Sukhpreet Kaur. Petitioner was known to the landlady and he oftenly visits her house. On 25.05.2020, petitioner came to the house of Sukhpreet Kaur. At that time, the prosecutrix was alone and Sukhpreet Kaur was not present in the house. Petitioner asked for water. When the prosecutrix went inside to take water, the petitioner followed her and committed forcible rape. He also slapped her with a threat not to disclose to anyone. The prosecutrix informed the landlady and also informed her son and uncle Baljit Singh. Thereafter, she was hospitalized.

Learned counsel for the petitioner submits that though in the statement under Section 164 Cr.P.C., the prosecutrix has taken the same stand as that of FIR, but while appearing as PW1, she has not supported the case of the prosecution, rather she stated that in the statement that she was having cordial relations with the petitioner and the petitioner has not committed any forcible rape upon her against her wishes. The prosecutrix has been declared as hostile and her cross-examination has not yielded any incriminating material against

the petitioner.

The prosecutrix has further stated that she is an illiterate and she did not know the meaning of rape. Petitioner was already married and this fact was known to her even before having acquaintance with the petitioner. She has further stated that the petitioner has not committed any rape upon her.

The bail has been declined to the petitioner by the Court of Sessions even after recording statement of the prosecutrix as PW1 on the premise that the Investigating Officer and other witnesses are still to be examined.

Learned State counsel, however, opposed the bail on the line on which the bail has been declined by the Court of Sessions.

Petitioner is in custody since 28.06.2020.

The trial of the case may take some time in its culmination.

Owing to the situation arising out of pandemic COVID-19 and without meaning anything on the merits of the case, the petition is allowed. Petitioner is directed to be released on regular bail, subject to his furnishing adequate bail bonds/surety bonds to the satisfaction of trial Court/concerned Duty Magistrate.

Nothing expressed hereinabove would be construed to be an opinion on the merits of the case.

09.07.2021
Jyoti Sharma

(RAJ MOHAN SINGH)
JUDGE

- 1. Whether speaking/reasoned : Yes/No
- 2. Whether reportable : Yes/No