

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

**CRM-M-25928-2021(O&M)
Date of Decision: 05.08.2021
(Heard through VC)**

Prem Sahay

...Petitioner

Versus

State of Haryana

...Respondent

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

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

Mr. Manish Dadwal, AAG, Haryana.

Mr. Akash Vashisth, Advocate
for the complainant.

JAISHREE THAKUR, J. (Oral)

The instant petition has been filed under Section 439 of Cr.P.C., for grant of regular bail to the petitioner in case FIR No.1362 dated 09.11.2020 under Sections 34, 376, 506 (376 (2) (n) added later on) of IPC registered at Police Station Shivaji Nagar, District Gurugram.

Learned counsel for the petitioner herein would contend that the petitioner has been falsely implicated in the said FIR which would be evident from the fact that there are enough photographs available on record which would reflect that the prosecutrix and the petitioner were roaming around freely. It is further argued that the prosecutrix is about 33 years of age, a married woman with three children and, therefore, cannot be said to be an innocent person. It is also argued that there is no medical on the record to substantiate the plea of an offence punishable under Section 376 IPC. It is also argued that the statement of the prosecutrix has been recorded in which she acknowledged the photographs reflecting that she

was seen roaming with the petitioner, though, she tried to justify the same by contending that she was under threat, which is not sustainable, considering the fact that the prosecutrix is a married women aged 33 years with three children.

Learned State counsel and learned counsel appearing on behalf of the complainant herein would on the other hand submit that the statement of the prosecutrix has been recorded and in substance have supported the allegations of offence of rape while contending that only two witnesses remained to be examined and the trial will conclude soon.

I have heard counsel for the parties and have also perused case file.

The petitioner is in custody since 10.11.2020 and the statement of the material witness has been recorded in which she has acknowledged the said photographs as relied upon by the counsel for the petitioner. The petitioner prays for release on bail by contending false implication and also in order to avail of a proper opportunity to prepare his defence. Keeping in view the fact that due opportunity should be given to the petitioner herein to prepare his defence, I deem it appropriate to allow the benefit of regular bail to the petitioner. The petition is allowed and the petitioner is ordered to be released on regular bail on his furnishing adequate bail and surety bonds in the sum of Rs.2,00,000/- each to the satisfaction of trial Court/Duty Magistrate concerned. Anything observed hereinbefore shall not be construed as an observation on merits of the case.

05.08.2021

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(JAISHREE THAKUR)

JUDGE

Whether speaking/reasoned :

Yes

No

Whether Reportable :

Yes

No