

213 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH
(through video conferencing)

CRM-M-28053-2021
Decided on : 21.09.2021

Pardeep Thakar

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Ms. Sharmila Sharma, Advocate
for the petitioner.

Mr. Gagandeep Singh Chhina, AAG, Haryana.

Manjari Nehru Kaul, J.

Instant petition has been filed under Section 439 Cr.PC for grant of regular bail to the petitioner in case FIR No.8 dated 09.01.2021 registered under Section 376(2)(n) IPC,1860 (Section 506 IPC added later on) at Police Station Civil Line Sonipat District Sonipat.

Learned counsel for the petitioner *inter alia* contends that the petitioner and the prosecutrix, aged 19 years, had been in a consensual relationship as is clearly discernible from her statement recorded under Section 164 Cr.PC. While inviting the attention of this Court to the statement of the prosecutrix recorded under Section 164 Cr.PC (Annexure P-2), learned counsel has submitted that she had stated therein that the prosecutrix had been in continuous touch with the petitioner and it was on the pretext of solemnization of marriage that he had violated her person as well as allegedly threatened to kill her. She submits that the medico-legal report (Annexure P-3) also reveals that no external injuries were found on the person of the prosecutrix, which lends credence to both the prosecutrix

and the petitioner being in a consensual relationship and no force having been used as alleged, by the petitioner to establish physical relations with the prosecutrix. She further submits that the only material witness i.e. prosecutrix has since been examined by the trial court. Still further, she submits that no doubt the prosecutrix reiterated the contents of her statement made under Section 164 Cr.PC that she had been raped by the petitioner on the pretext of solemnizing marriage but in fact it is the prosecutrix, who discontinued her dalliance with the petitioner and thereafter foisted this case upon him even though the petitioner was willing to marry her. She submits that since the prosecutrix is the only material witness as the complainant i.e. mother of the prosecutrix has already expired on 11.08.2020, no useful purpose would be served in keeping the petitioner behind bars.

Per contra, learned State counsel while opposing the prayer made by learned counsel for the petitioner on instructions from ASI Sandeep Kumar has submitted that the prosecutrix has since been examined wherein she has reiterated the allegations that the petitioner committed rape upon her after giving her a false promise of marriage. He further submits that 17 more prosecution witnesses remain to be examined.

Heard.

In the facts and circumstances of the case, more so, when the only material witness i.e. prosecutrix has already been examined, no useful purpose would be served by keeping him in custody as trial is unlikely to conclude in the near future. The present petition is allowed and the petitioner be admitted to bail to the satisfaction of the trial Court/Duty

Magistrate. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

(MANJARI NEHRU KAUL)
JUDGE

21.09.2021
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Whether speaking/reasoned:	Yes/No
Whether reportable :	Yes/No