

CRM-M-30556-2021
Decided on : 17.12.2021

Rampal

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAULPresent : Mr. R.K.Saini, Advocate
for the petitioner.

Ms. Gaganpreet Kaur, AAG, Haryana.

MANJARI NEHRU KAUL, J.

The present petition has been filed under Section 439 Cr.P.C., for grant of regular bail to the petitioner in case FIR No.49 dated 26.08.2020 under Sections 376(2) (n), 506, 34 IPC, 1860 registered at Police Station Women Police Station Hansi, District Hisar.

Learned counsel for the petitioner submits that the petitioner, who has been in custody since 27.08.2020, has been falsely implicated in the case in hand on the basis of totally false and fabricated allegations that continuously for one year he committed rape upon the prosecutrix and that too in her matrimonial home. He further submits that in fact from the allegations levelled in the FIR in question, it was evident that the relations, if any, between the petitioner and the prosecutrix were consensual in nature as it could not be digested that the prosecutrix would have chosen to keep quiet for as long as one year while the petitioner continued to rape her as already submitted hereinabove in her matrimonial home that too during day while her husband was away to work. While inviting the attention of this Court to the deposition of the prosecutrix before the trial Court as

PW-4, which has been placed on record today in Court, learned counsel submits that she therein admitted to her photographs Ex.D-1 to D-5 wherein she and the petitioner are seen in a compromising position. He further submits that it was but obvious that the prosecutrix had been left with no other option but to register the instant FIR after her illicit relations with the petitioner came to light and in order to save her marriage, she thus, planted the case in hand upon the petitioner. A prayer, therefore, has been made to extend the concession of bail to the petitioner since the sole material witness i.e. prosecutrix stands examined and further incarceration of the petitioner would not serve any useful purpose, more so, since 8 more prosecution witnesses remained to be examined.

Per contra learned State counsel while opposing the prayer of the counsel opposite has submitted that the prosecutrix was a married woman, who was raped repeatedly after being extended threats by the petitioner. She has submitted that no doubt the alleged offence was committed continuously in the matrimonial home of the prosecutrix, however, one could not lose sight of the gravity of the offences committed by the petitioner upon a married woman. She, on instructions from ASI Saroj has submitted that the prosecutrix reiterated her allegations against the petitioner while stepping into the witness box. Learned State counsel, however, did concede that the prosecutrix had admitted to the photographs Ex.D-1 to D-5 wherein she could be seen in a compromising position with the petitioner. She has also not controverted the fact that the prosecutrix is the sole material witness in the case in hand.

Heard learned counsel for the parties and perused the material available on record.

In the facts and circumstances enumerated hereinabove as well as the submissions made by learned counsel for the parties, instant petition is allowed. The petitioner be admitted to bail to the satisfaction of the trial Court/Duty Magistrate concerned. 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

17.12.2021
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Whether speaking/reasoned:	Yes/No
Whether reportable :	Yes/No