

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

Sr. No.225

CRM-M No.33976 of 2020

DATE OF DECISION: 06.09.2021

Rajbir

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM:- HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

(Through Video-Conferencing)

Present:- Mr. Jasdev Singh Thind, Advocate
for the petitioner.

Ms. Gaganpreet Kaur, AAG, Haryana.

MANJARI NEHRU KAUL, J. (ORAL)

The instant petition has been filed under Section 439 Cr.P.C. for grant of bail to the petitioner in case FIR No.37, dated 22.02.2020, under Sections 376(2)(L), 365 IPC, registered at Police Station Sadar Tohana, District Fatehabad.

Learned counsel for the petitioner has invited the attention of this Court to the FIR which is annexed as Annexure P-1 as well as the statement recorded under Section 164 Cr.P.C of the eye witness to the occurrence. He submits that one fact which clearly emerges from a perusal of both these statements is that the petitioner had been named as an accused in the case in hand only on the basis of suspicion. He has further submitted that though the occurrence was alleged to have taken place in a hut, however, no specific time qua the occurrence was mentioned in the FIR in

question which cast a serious doubt about the authenticity of the allegations levelled. He has further submitted that since it was the case of the complainant himself that he had seen the petitioner accompanying the prosecutrix back to her house, the petitioner would not have done so, had there been any grain of truth in the allegations levelled. He further submits that FSL report also does not corroborate the case of the prosecution with respect to the allegations of the rape. He has also further submitted that petitioner has been in custody since 23.02.2020 and hence he be extended the concession of bail as the trial is unlikely to conclude in the near future.

Per contra, while opposing the prayer and submissions made by learned counsel for the petitioner, learned State counsel on instructions from ASI Sarabjit Kaur, has apprised the Court that not only was the petitioner named in the FIR in question but there were serious allegations levelled against him of violating the modesty and person of the prosecutrix, aged 50 years, who was both mentally and physically challenged. She has further submitted that on the date of the alleged occurrence, the prosecutrix was found missing from her residence in the afternoon. One Rajesh @ Godu who was in the vicinity on hearing screams coming from the hut of the petitioner rushed there and saw the prosecutrix in a naked condition and the petitioner hurriedly going away from the spot. Learned State counsel has further apprised the Court that the eye witness Rajesh Masih while stepping into the witness box supported the case of the prosecution in its entirety and deposed as per his statement given under Section 164 Cr.P.C. She has further submitted that 04 witnesses stand

examined including the material witnesses, while six witnesses were given up and now only 11 remained to be examined who are mostly formal witnesses.

Heard.

Prime facie there are serious allegations levelled against the petitioner of having violated the modesty and person of a mentally and physically challenged woman. This Court is thus, not inclined to extend the concession of bail to him.

Dismissed.

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.

6th September, 2021

Shivani Kaushik

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No