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

CRM-M No. 27396 of 2020
Date of Decision: 17.02.2021

Ajay Kumar @ Mukesh Kumar

-Petitioner

Vs

State of Haryana

-Respondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Randeep Singh, Advocate,
for the petitioner.

Mr. Anant Kataria, D.A.G., Haryana.

RAJ MOHAN SINGH, J. (ORAL)

The case has been taken up for hearing through video-conferencing.

Petitioner seeks grant of regular bail under Section 439 Cr.P.C. in case bearing FIR No.426 dated 31.10.2019 under Sections 376, 450, 452, 506 IPC (Offence under Section 450 IPC added later on) registered at Police Station Ladwa, District Kurukshetra.

Allegations are that on 29.10.2019 at about 11.30 PM, petitioner entered in the house of the prosecutrix when she was sleeping along with her children and he committed bad act forcibly and also gave threats of killing her in case the incident is

disclosed to someone. The FIR came to be registered on 31.10.2019 with an explanation that the complainant was thinking that the petitioner would realize his mistake and give apology for his big mistake but the petitioner did not realize his mistake and thereafter, FIR was got registered by the complainant.

Learned counsel further submits that according to the complainant, the apology would have condoned the act of the petitioner and the complainant waited for about 02 days for the same. Infact, the occurrence has not taken place in the manner as suggested by the prosecutrix.

Petitioner is in custody since 01.11.2019.

No PW has been examined so far.

On 12.11.2019, the case was adjourned when the learned State counsel submitted that the victim has not been examined so far. Thereafter, the case was adjourned to 06.01.2021 and following order was passed:-

“The case has been taken up for hearing through video conferencing.

Learned counsel for the petitioner submits that the prosecutrix is reluctant to appear before the trial Court for making her statement as PW.

Learned State counsel submits that 15.01.2021 is the date fixed before the trial Court for prosecution evidence and every effort shall be made to examine the prosecutrix either on the date fixed or soon thereafter.

Adjourned to 17.02.2021.

Today, learned counsel for the petitioner has placed on record order dated 16.02.2021 passed by the trial Court wherein it has been recorded that arrest warrants have been issued for presence of PW1 to PW3 for 16.03.2021.

Learned State counsel on instructions from ASI Mamta Rani submits that owing to the reluctance shown by the PWs, their presence is sought to be secured by means of arrest warrants and in all probability, they would appear on 16.03.2021 and would depose before the Court.

Keeping in view the overall facts and circumstances of the case, I find that the prosecutrix is reluctant to appear in the Court despite the order dated 06.01.2021 passed by this Court and order dated 16.02.2021 passed by the trial Court.

Keeping in view the custody of the petitioner and the stage of the trial, I deem it appropriate to enlarge the petitioner on regular bail.

In view of above, 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.

17.02.2021
Jyoti Sharma

(RAJ MOHAN SINGH)
JUDGE

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