

**136+210 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-33817-2021(O&M)

Date of Decision: 29.09.2021

(Heard through VC)

Rahul

...Petitioner

Versus

State of Haryana

...Respondent

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Prateek Rathee, Advocate
for the petitioner.

Mr. Dhruv Sihag, AAG, Haryana.

JAISHREE THAKUR, J. (Oral)

CRM-32516-2021

Prayer in the application is for placing on record Annexures P8.

Allowed as prayed for.

Annexures P-8 is taken on record.

CRM-M-33817-2021(O&M)

The instant petition has been filed under Section 439 Cr.P.C., for grant of regular bail to the petitioner in case FIR No.276 dated 04.04.2021 under Sections 376(2)(n) IPC and Sections 66E, 67A of the Information and Technology Amendment Act, 2008, registered at Police Station Shivaji Nagar, Gurugram, Haryana.

Learned counsel for the petitioner herein would contend that in fact the parties were well known to each other and were involved and therefore, the question of rape would not be applicable. It is submitted that

while recording the statement under Section 161 Cr. P.C., the prosecutrix had given a different version and wrong dates of incident. It is also argued that the call details available on record would reflect that the petitioner had made several hundred phone calls to the complainant and the whatsapp chats available would reflect that the complainant herself was initiating dialogue with the petitioner. Therefore, the evidence available on record would not constitute an offence under Section 376 IPC. It is also argued that there is inordinate delay in registration of the FIR which is registered after the period of two years. It is submitted that trial is likely to take some time to conclude, therefore, custody of the petitioner would no longer be required.

Learned counsel for the respondent-State opposes the grant of regular bail by contending that there is enough material on record to convict the petitioner herein for the said offence but is not in a position to dispute the fact that there is a delay in registering of the FIR.

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

In view of the fact that the statement of the prosecutrix has been recorded. Taking into the fact that the 18 witnesses have been cited, only 3 are examined so far, trial is likely to take long to conclude and there remains no chances for the petitioner to hamper the trial in any manner. As far as the question of relationship inter se the parties, it would be the matter of trial as to whether the relationship between the parties were consensual or not. Without commenting the merits of the case, the instant petition is

allowed and the petitioner is ordered to be released on regular bail on his furnishing bail bond in the sum of Rs.2,00,000/- with one surety in the like amount to the satisfaction of trial Court/Duty Magistrate concerned.

Anything observed hereinbefore shall not be construed as an observation on merits of the case.

29.09.2021	(JAISHREE THAKUR)	
Riya	JUDGE	
Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No