

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-32330-2020 (O&M)
Date of Decision: 07.01.2021

Sanjay

....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

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

Mr. Naveen Kumar Sheoran, DAG, Haryana,
for the respondent.

Through Video Conferencing

JASGURPREET SINGH PURI, J. (Oral)

The present petition has been filed under Section 439 of the Code of Criminal Procedure, for seeking grant of regular bail to the petitioner in FIR No.434 dated 07.10.2019, under Sections 323, 450, 376 and 506 of the Indian Penal Code, registered at Police Station Chandhut, District Palwal.

The learned counsel for the petitioner has submitted that as per the FIR, the complainant/prosecutrix lodged a complaint to the police that on 07.10.2019 at around 10:00 AM, when she was present in her house alone and her kids had gone to the farm then the petitioner and one another person entered into her house and committed rape upon her. The learned counsel for the petitioner has further submitted that the other co-accused, namely, Yudhistar was found innocent during investigation by the police. He has

further submitted that during the trial, six witnesses have already been examined including the complainant herself, husband and the mother-in-law of the complainant/prosecutrix and all of them have turned hostile during their depositions. He has further referred to Annexure P-4, which is the deposition of the complainant/prosecutrix to show that in the entire examination-in-chief as well as in the cross-examination, there are repeated discrepancies in the statement given by the complainant/prosecutrix. He has further submitted that the petitioner is in custody since 17.12.2019 and the medical opinion as well as the FSL report has already been completed before the learned trial Court and there is no occasion for the petitioner to influence any material witness or to temper with any evidence and therefore, has prayed for the grant of regular bail to the petitioner.

Per contra, the learned counsel for the State has submitted that it is correct that after the completion of the investigation and framing of the charges, six witnesses have been examined and the petitioner is in custody since 17.12.2019. However, he has opposed the grant of regular bail to the petitioner on the ground that the matter is serious in nature.

I have heard the learned counsel for the parties.

The petitioner is in custody since 17.12.2019, which is more than one year and six material witnesses have already been examined including the complainant/prosecutrix, husband and mother-in-law of the complainant/prosecutrix. Various discrepancies have also been pointed out by the learned counsel for the petitioner in the statement made by the complainant/prosecutrix. Apart from this, the other co-accused has already been declared innocent by the police during the investigation. Furthermore,

it is not the case of the State that in case the petitioner is release on bail, then he may temper with the any evidence or he may influence any of the witnesses.

Therefore, considering the totality of the facts and circumstances of the present case, I deem it fit and proper to admit the petitioner on bail. Consequently, the present petition is allowed. The petitioner shall be admitted to regular bail on his furnishing bail/surety bonds subject to the satisfaction of the learned trial Court/Duty Magistrate.

However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is meant for the purpose of deciding the present petition only.

07.01.2021
adhikari

(JASGURPREET SINGH PURI)
JUDGE

Whether speaking/non-speaking	:	Yes/No
Whether reportable	:	Yes/No