

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(232)

CRM-M-36807-2021

Date of Decision: 17.11.2021

Ramesh Kumar

--Petitioner

Versus

State of Haryana

--Respondent

CORAM:- HON'BLE MR. JUSTICE RAJESH BHARDWAJ.

Present:- Mr. Tejinder Pal Singh, Advocate for the petitioner.

Mr. Vishal Kashyap, D.A.G., Haryana.

RAJESH BHARDWAJ.J (Oral)

Matter has been taken up through video conferencing via Webex facility in the light of the Pandemic Covid-19 situation and as per instructions.

The present petition has been filed under Section 439 Cr.P.C seeking the benefit of regular bail to the petitioner in case FIR No.287 dated 26.7.2021 under sections 452, 376, 506, 509 I.P.C, registered at Police Station, Kunjpura, district Karnal.

As per the factual matrix, the present FIR was got registered by the victim herself on the basis of the allegations that on 13.6.2021 she was alone at home. Then accused/petitioner Ramesh entered her house and did bad act with her and also threatened her to kill in case she disclosed the incident to anyone. When the victim tried to raise alarm accused pressed her mouth. Next day in the morning she narrated the incident to her husband. Thereafter the matter was reported to the police for taking legal action against the accused/petitioner.

The petitioner was arrested on 6.8.2021. He approached learned Addl. Sessions Judge, Karnal for the grant of bail but the same was declined vide order dated 27.8.2021. Aggrieved by the same, petitioner has approached this Court for grant of bail.

Learned counsel for the petitioner vehemently contends that the petitioner was falsely implicated in the present FIR and no offence, as alleged, is made out against him. It has been further contended that victim is a major being 23 years old. Counsel submits that victim has been examined by the Trial Court as PW-1. He has placed on record copy of her deposition which would show that prosecutrix has not supported the case of the prosecution and was declared hostile. Counsel submits that victim is the crucial witness of prosecution and as she has not supported the case of the prosecution, further incarceration of the petitioner is totally unwarranted and he deserves to be enlarged on bail.

On the other hand, learned State counsel on instructions from ASI Karambir Singh submits that there are specific allegations against the petitioner of committing rape with the prosecutrix/complainant and threatening her. However, he candidly affirms the fact that the prosecutrix has not supported the case of the prosecution. State counsel informs the Court that out of the 10 prosecution witnesses only prosecutrix has been examined by the Trial Court.

I have heard learned counsel for the parties at length and have gone through the records made available.

Both the prosecutrix/complainant and petitioner are major. Petitioner is behind bars since 6.8.2021. Admittedly, prosecutrix has not supported the case of the prosecution.

In view of the peculiar facts and circumstances, I find that the veracity of the allegations levelled in the FIR would be established only after conclusion of the trial.

In the totality of circumstances and without making any observations on merits, present petition is allowed. Petitioner be enlarged on bail subject to satisfaction of Trial Court/Duty Magistrate, concerned. Nothing stated herein shall be treated as an expression on the merits of the case.

(RAJESH BHARDWAJ)
JUDGE

17.11.2021

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Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No