

CRM-M-40253-2021

Date of Decision:30.9.2021

Aman Srivastav

..... Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Rajnish Ranjan, Advocate, for the petitioner.

Mr. Manish Bansal, Deputy Advocate General, 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.

Present petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in FIR No.159 dated 22.5.2020 under Sections 328, 376(2)(n) IPC registered at Police Station DLF Phase-III, Gurugram.

As per the factual matrix of the case, the present FIR was registered on the statement of the prosecutrix, who is 28 years of age, has alleged that she was employed in a company and had dispute with the company. Her friend Abhinav told her that he knows an Advocate, who can help her for setting the dispute. As a result, she was taken to the Advocate, namely, Aman Srivastav i.e. the present petitioner and that is how she was introduced with the petitioner. It was alleged that after having introduced with the petitioner, she was taken in a party by the petitioner, wherein she was made to drink alcohol. She alleged that taking the benefit of the same, the petitioner established physical relations with her without her consent.

Thereafter, the petitioner allegedly threatened the prosecutrix/complainant that her reputation in the company would be tarnished in case she discloses the same to anyone. The FIR was lodged to take action against the culprit. The investigation commenced and thereafter, on filing of the challan, the trial Court had taken cognizance of the same.

Learned counsel for the petitioner has vehemently submitted that both the petitioner as well as the prosecutrix are major and if at all there was relationship between both of them that was very much consensual and there was no coercion whatsoever on the part of the petitioner. He would submit that the petitioner is an Advocate and cannot even think of committing such kind of offence, which has been alleged against him. He has relied upon the testimony of the prosecutrix, who has been examined by the trial Court as PW-1. The same has been placed on record. He would submit that the prosecutrix has not supported the case of the prosecution. While entering into the witness box, she has submitted that neither the petitioner sexually exploited her nor he committed any wrongful act with her by force at any point of time. Resultantly, she was declared hostile on request of learned Public Prosecutor. Learned counsel for the petitioner submits that the false implication of the petitioner is writ large in view of the facts and circumstances of the case. He is behind bars since 22.5.2020, thus, his further incarceration is totally unjustified.

Learned State counsel has submitted that the FIR was lodged on the statement of the prosecutrix, who named the petitioner categorically. However, he candidly accepts that the prosecutrix has not supported the case of the prosecution. He submits that out of 25 prosecution witnesses, 6

witnesses have been examined and remaining 19 witnesses remain to be examined.

I have heard learned counsel for the parties.

In the facts and circumstances of the case, the Court confines itself to the plea made for grant of bail. The petitioner is behind bars since 22.5.2020 and the prosecutrix has not supported the case of the prosecution. 19 prosecution witnesses are still to be examined, which makes apparent that the trial would take sufficient long time to conclude. In the overall facts and circumstances of the case, I find that learned counsel for the petitioner has made out a case for grant for regular bail. Accordingly, the present petition is allowed and the petitioner is ordered to be released on bail to the satisfaction of the concerned trial Court/Duty Magistrate. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

(RAJESH BHARDWAJ)
JUDGE

30.9.2021
sharmila

Whether Speaking/Reasoned	:	Yes/No
Whether Reportable	:	Yes/No