

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(238)

CRM-M-42647-2021

Date of Decision: 25.11.2021

Parmod Kumar

--Petitioner

Versus

State of Haryana

--Respondent

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

Present:- Mr. Krishan Singh, Advocate for the petitioner.

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

RAJESH BHARDWAJ.J (Oral)

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.12 dated 6.1.2021 under sections 376, 323, 506 I.P.C, registered at Police Station, City Yamuna Nagar, District Yamuna Nagar.

As per the factual matrix, the present FIR was got registered by the victim herself on the basis of the allegations that she had studied up to 8th standard and doing household work. She came in contact with the petitioner Parmod and developed friendship. Thereafter the petitioner promised her to marry. It was further alleged that on 3.1.2021 the petitioner took her to Jyoti Plywood Factory, where he committed wrong act with her forcibly. She alleged that her family members went to the house of the petitioner for talking about the marriage but the parents of the petitioner gave beatings and threatened them to kill. Thereafter the matter was reported to the police for taking legal action against the accused/petitioner.

The petitioner was arrested on 7.1.2021. He approached learned Addl. Sessions Judge, Yamuna Nagar for the grant of bail but the

same was declined vide order dated 27.9.2021. 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 both petitioner and the prosecutrix are major and from the bare reading of the FIR it is evident that the relationship between the petitioner and the prosecutrix was consensual. As per her own allegations the physical relations between the prosecutrix and the petitioner were established on the promise of marriage. To fortify his contentions counsel relies upon a decision rendered by the Hon'ble Apex Court in case of ***Pramod Suryabhan Pawar Vs. State of Maharashtra and others, 2019(9) SCC 608***. It is further submitted that in the facts and circumstances of the case, there cannot be any misrepresentation on the part of the petitioner and hence it is wrong to say that the consent of the prosecutrix was taken by misleading her. Counsel further submits that in the overall facts and circumstances of the case, 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 Baljit Kaur has vehemently opposed the submissions made by learned counsel for the petitioner. He submits that there are specific allegations of committing rape with the prosecutrix in the FIR. State counsel informs the Court that out of the 13 prosecution witnesses cited 5 witnesses including the prosecutrix have been examined by the Trial Court. State counsel submits that while deposing before the Trial Court the prosecutrix has duly supported the case of the prosecution and hence no case for grant of bail is

made out.

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

Admittedly, both the prosecutrix and petitioner are major. Petitioner is behind bars since 7.1.2021. In view of the peculiar facts and circumstances, I find that the veracity of the allegations levelled in the FIR would be established only during the trial, the conclusion of which will take sufficient long time.

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

25.11.2021

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