

**In the High Court for the States of Punjab and Haryana
At Chandigarh**

CRM-M-38232-2020 (O&M)
Date of Decision:-16.9.2021

Kapil	Versus	... Petitioner
State of Haryana		... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Randeep S. Dhulll, Advocate for the petitioner.

Mr. Rajiv Sidhu, DAG, Haryana,
assisted by ASI Munni.

GURVINDER SINGH GILL, J.(Oral)

1. The petitioner seeks grant of regular bail in respect of a case registered vide FIR No.06 dated 13.1.2019 at Women Police Station, Palwal, District Palwal under Sections 365, 376-D, 120-B of Indian Penal Code.
2. The FIR was lodged at the instance of prosecutrix aged 35 years, wherein she has alleged that on 13.1.2019 at about 6:00 p.m. when she reached Village Meesa after taking medicine from Mittal Hospital, she met Baldev at an intersection and who made her sit on his motorcycle. It is alleged that Baldev Singh took her to the house of Kapil, where Kapil and Deepak were already present. It is alleged that all three of them committed rape upon her turn by turn and later left her outside the house.

3. Learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in the present case and that the falsity of the case would be evident from the fact that the police, during the course of investigation, has already found Deepak to be innocent. It has further been submitted that infact subsequently the prosecutrix had furnished an affidavit regarding the innocence of the petitioner as well, but somehow later she resiled from the said affidavit. It has further been submitted that the prosecutrix is a mature lady aged about 35 years and that it remains unexplained as to why she had voluntarily accompanied Baldev on his motorcycle and that the only explanation is that she was a consenting party or that a false case has been lodged against the accused.
4. Opposing the petition, learned State counsel has submitted that since the petitioner is specifically named in the FIR and serious allegations of rape have been levelled, there is no case for doubting the version of the prosecutrix at this stage and that, in these circumstances, the petitioner does not deserve the concession of bail. It has, however, been informed that the petitioner as on date has been behind bars since the last about 2 ½ years and that he is not involved in any other case. It has also been informed that till date only 9 out of the cited 21 PWs have been examined.
5. I have considered rival submissions addressed before this Court.
6. In is not doubt correct that serious allegations have been levelled by the prosecutrix but there are certain issues, which would certainly required to be explained by the prosecutrix particularly the fact as to why she had accompanied Baldev Singh on his motorcycle. In any case, the petitioner as on date has been behind bars for a substantial period of 2½ years and he is

not stated to be involved in any other case. The conclusion of trial is likely to consume time as only 9 out of the cited 21 PWs have been examined so far. As such, further detention will not serve any useful purpose. The petition, as such, is accepted and the petitioner is ordered to be released on bail subject to his furnishing bail bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

7. It is, however, clarified that none of the observations made above shall be taken to be an expression on merits of the main case.

16.9.2021

pankaj

**(Gurvinder Singh Gill)
Judge**

Whether speaking /reasoned Yes / No

Whether Reportable Yes / No