

IN THE HIGH COURT OF PUNJAB & HARYANA AT  
CHANDIGARH

(231)

CRM-M-39721-2020(O&M)

Date of Decision: 17.08.2021

Arshad

--Petitioner

Versus

State of Haryana

--Respondent

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

Present:- Mr. Pradeep Chhoker, Advocate for the petitioner.

Mr. Manish Bansal, D.A.G., Haryana.

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**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.115 dated 10.2.2020 under sections 342, 363, 365, 366, 376 I.P.C and Section 6 of POCSO Act, registered at Police Station, Chandni Bagh, Panipat, District Panipat.

It has been contended by learned counsel for the petitioner that the FIR in question was lodged by the father of the prosecutrix wherein he had alleged that his minor daughter is not traceable and the action be taken against the person responsible. During investigation, petitioner was named and he was arrested. It is contended that petitioner is behind bars since 2.3.2020 and he has been falsely implicated in the present FIR. It has been further contended that the false implication of the petitioner is evident from the fact that the complainant has been examined before the Trial Court as

PW-1 and he did not support the case of the prosecution and as a result was declared hostile. It has been further contended that the victim was also examined as PW-2 and she also failed to support the case of the prosecution and was also declared hostile. Even in the statement recorded under Section 164 Cr.P.C the victim had not supported the allegations of rape.

On the other hand, learned State counsel affirms the contentions raised by learned counsel for the petitioner that both the material witnesses have failed to support the case of the prosecution. He further submits that there are total 18 prosecution witnesses out of which only 5 have been examined so far.

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**

**17.08.2021**

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