

CRM-M-46167-2021 (O&M)
Date of decision-13.12.2021

Rajender Siradhna

...Petitioner

Vs.

State of Haryana

...Respondent

CORAM:- HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Mahir Soor, Advocate for the petitioner.

Ms. Deepshikha Chauhan, AAG, Haryana.

SUVIR SEHGAL, J. (ORAL)

Instant petition has been filed under Section 439 of the Code of Criminal Procedure, 1973, seeking grant of regular bail to the petitioner in case FIR No.436, dated 24.06.2021 registered for offence under Sections 376, 506 and 342 of IPC, 1860, at Police Station Sadar Gurugram, District Gurugram.

As per the case of the prosecution, FIR (Annexure P-1) has been registered on the statement of the prosecutrix on the allegation that she is a seamstress and had approached IndusInd Bank for gold loan. She met Rajender Siradhna, present petitioner, who is the Branch Manager of the Bank and he assured her that he will get her a loan at a low rate of interest. The complainant alleged that he trapped her on a falsehood, took a photocopies of her personal documents and told her that her file will be

processed within 15-20 days. On 21st June, 2021, she received a call from him in the morning informing that her file has been cleared and called her to the bank. When she reached the premises of the bank, he took her to his house on the pretext that he had left behind her file there and raped her. It has been alleged that the petitioner gagged her with a cloth, took objectionable photographs and made a video and threatened her not to disclose the incident to anyone or else he will make her photographs and video go viral. On her complaint, a zero FIR was registered at Faridabad on 21.06.2021.

Counsel for the petitioner submits that the petitioner has been falsely framed and that the prosecutrix was a consenting party to the physical relationship with the petitioner. Counsel has referred to the Medico Legal Report, Annexure P-2, to submit that no external injury was found on the prosecutrix. He has also invited the attention of the Court to the affidavit dated 14.10.2021, Annexure P-4 executed by the prosecutrix, wherein, she has deposed that she was a consenting party and that the petitioner did not commit any indecent act upon her. By making a reference to the examination of the prosecutrix, Annexure P-5, counsel for the petitioner submits that she has deposed that she was on friendly terms with the petitioner and he did not commit any wrong act with her against her wishes at any point of time. Counsel submits that the petitioner, who is in custody since 25.06.2021, is no longer required for custodial interrogation and deserves to be granted concession of bail.

Per contra, learned State counsel upon instructions from SI Mukesh, has opposed the petition and submitted that the statement of the prosecutrix recorded under Section 164 Cr.P.C. is in consonance with the

allegations levelled by her in the FIR. On further instructions, she submits that the FSL report is negative and no objectionable photographs or video have been recovered till date nor any such material has been provided by the prosecutrix. As per her instructions, 03 out of 14 prosecution witnesses have been examined and the trial is fixed for 03.01.2022 for examination of the remaining prosecution witnesses.

Having considered the above circumstances, this Court is prima facie of the view that the involvement of the petitioner in the offence would remain debatable. The examination of the prosecutrix, who is the most material witness has been conducted, the petitioner is in custody for the last more than 5 months, this Court is, therefore, of the view that he deserves to be released on bail as the trial is likely to take time to conclude.

Without delving into the merits or de-merits of the arguments addressed by the counsel for the parties, the petition is allowed. The petitioner is ordered to be released on bail on furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate concerned.

It is clarified that any observation made hereinabove shall not be construed to be an expression of opinion on the merits of the case.

(SUVIR SEHGAL)
JUDGE

13.12.2021
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Whether speaking/reasoned :	Yes/No
Whether Reportable :	Yes/No