

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

-.-
CRM-M-42279-2020
DATE OF DECISION: 12.03.2021

Arun

.....Petitioner

versus

State of Haryana

.....Respondent

CORAM:- HON'BLE MRS. JUSTICE ALKA SARIN

Present: Mr. Ashwani Nagra, Advocate for the petitioner
Mr. Gaurav Gulzar Singh Chauhan, AAG Haryana

ALKA SARIN, J. :

Heard in physical mode.

This is the second petition filed under Section 439 CrPC for grant of regular bail to the petitioner in case FIR No.19 dated 28.02.2020 under Sections 376, 452, 506 IPC registered at Women Police Station, Karnal, District Karnal. The first petition under Section 439 CrPC (CRM-M-20532-2020) was dismissed as withdrawn on 08.11.2020.

The allegations in the FIR dated 28.02.2020 are that the marriage of the complainant was solemnized 11 years ago and that her husband is working in Delhi and used to come home once a week on Sundays. It is alleged that the petitioner started coming to the complainant's house on the pretext of water and one day he put a knife on the complainant and committed wrong with her and also prepared a video and used to torture her by saying that he would viral the video on the internet and would kill her family members. The complainant alleged that

out of fear she did whatever the petitioner said and that whenever her husband used to come home once in a week then the petitioner used to get him administered sleeping pills. The complainant also alleged that the petitioner forcibly got her pregnant and from time to time he has physically tortured and harassed her by scaring her of the video. According to the complaint, the family members of the petitioner also know about this and threaten and harass her and that the last time the rape was committed was on 13.09.2019.

Learned counsel for the petitioner has contended that the petitioner has been falsely implicated in the case and that the FIR is a counter-blast to the complaint and FIR by the petitioner and his father against the family members of the complainant. According to the counsel for the petitioner on 16.09.2019 an altercation had taken place between the petitioner and his family on the one side and the complainant's family on the other side which led to the filing of a complaint (Annexure P-2) by the petitioner. However, a Panchayati Compromise (Annexure P-3) was reached. On 30.01.2020 the complainant's brother-in-law and others had unnecessarily given beatings to the petitioner's father which led to the lodging of a FIR (Annexure P-4) against them. It is argued that the present FIR was lodged by the complainant on the instigation of her husband and her brother-in-law. It is further submitted that there is an unexplained delay of over five months in lodging the FIR. Counsel for the petitioner has also contended that earlier there were good friendly relations between the petitioner and the complainant but after the incident on September 2019 the complainant, under the influence of her husband, has lodged the FIR

against the petitioner. Counsel has produced on record photographs Annexure P-7 to show that the parties knew each other very intimately. Counsel for the petitioner has also placed on record a CD (Annexure P-5) allegedly containing a recording of the complainant's husband demanding Rs.50 lakhs from the petitioner's family to withdraw the case against the petitioner. Lastly the counsel for the petitioner contended that the petitioner was arrested on 29.02.2020 and that challan has already been present in Court and that the petitioner is not required for any further investigation and recovery.

The State has filed a reply dated 06.01.2021 by way of affidavit of Jagdeep Singh, HPS, Deputy Superintendent of Police, Karnal-II. The reply discloses that investigations were launched by the Police upon receiving the complaint. The petitioner was arrested on 29.02.2020, the mobile phone used for making the video was recovered from him and his medical examination was got conducted. As per the reply, after obtaining orders from the Court, the blood samples of the petitioner and the complainant's child were sent to FSL, Madhuban for DNA test whose result is attached as Annexure R-1.

I have heard counsel for the parties. Though the accusations against the petitioner are serious, he has been behind the bars for over a year. The FSL Report (Annexure R-1) attached by the State with its reply shows that even the samples were not collected as per Haryana Medico Legal Guidelines, 2012 and no concrete conclusion was reached. Further, the reply does not state if any objectionable video was recovered from the mobile phone of the petitioner. Further, charges are yet to be framed

against the petitioner. It has not been denied that there is no other case registered against the petitioner. The photographs Annexure P-7 also portray that the relationship between the parties was consensual at some point in time.

In view of the above and without commenting upon the merits of the case and since the conclusion of the trial is likely to take some time due to the prevailing Covid-19 Pandemic, I deem this to be a fit case to grant the concession of regular bail to the petitioner. The petitioner is directed to be released on bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the Illaqa Magistrate/Duty Magistrate/Trial Court concerned.

However, the Prosecution will always be at liberty to apply for cancellation of bail in case the petitioner is found to be misusing the concession of bail in any manner.

It is also made clear that any observation made herein shall not be treated as an expression of opinion on the merits of the case.

Disposed off.

March 12, 2021
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(ALKA SARIN)
JUDGE

NOTE:

Whether speaking/non-speaking: Speaking

Whether reportable: YES/NO