

207

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-43937-2020
Date of Decision: 07.01.2021

Yash Rana @ Yash Pal Singh

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE SUDIP AHLUWALIA

Present: Mr. G.S. Dhillon, Advocate,
for the petitioner.

Mr. B.S. Sewak, Additional Advocate General, Punjab.

SUDIP AHLUWALIA, J. (ORAL)

The present petition has been filed under Section 439 of the Code of Criminal Procedure by the petitioner, seeking regular bail in case FIR No.87 dated 30.10.2020, under Section 376(2)(n) of the IPC, registered at Police Station Naya Gaon, SAS Nagar, Mohali.

2. The petitioner has remained in detention for more than two months now after having been arrested on 31.10.2020, and thereafter being remanded to judicial custody w.e.f. 03.11.2020. After completion of the investigation, challan against him has already been submitted.

3. Ld. Counsel for the petitioner has relied upon the decision of Hon'ble the Supreme Court in the case of **“Dr. Dhruvaram Murlidhar Sonar Vs. State of Maharashtra and others”**, 2019(1) R.C.R. (Criminal) 674, in which the FIR drawn up under Section 376(2)(b) on the complaint of the

prosecutrix in that case, who was working as an Assistant Nurse in the same Health Centre, where the accused was working as a Medical Officer, was quashed by the Ld. Apex Court, in view of the fact that the prosecutrix was admittedly a woman of mature understanding and there was never any allegation that anytime she had been forcibly raped. On the contrary, she had effectively consented to a consensual relationship with the accused, and that after having lived in such relationship with him for quite sometime together, she lodged the complaint against him after coming to know that he had married some other woman. It was also the observation of the Ld. Apex Court in the said case that:-

“It is not a case of a passive submission in the face of any psychological pressure exerted and there was a tacit consent and the tacit consent given by her was not the result of a misconception created in her mind. We are of the view that even if the allegations made in the complaint are taken at their face value and accepted in their entirety, they do not make out a case against the appellant. We are also of the view that since complainant has failed to prima-facie to show the commission of rape, the complaint registered under Section 376(2)(b) cannot be sustained.”

4. The facts of the present case are strikingly similar with those in ***Dr. Dhruvaram Murlidhar Sonar's case (supra)***. According to the FIR, the prosecutrix was born in the year 1998, and had therefore clearly crossed the age of majority at the relevant time. Likewise, she was also working in the same establishment as the petitioner/accused, i.e. at 'BURN GYM', and had entered into a relationship with him after their talks started from the gym on 21.02.2020.

5. Even otherwise, custody of the petitioner at this stage is not

required as challan against him has already been submitted on 26.12.2020. The trial is yet to commence and even the charges are yet to be framed.

6. In such circumstances, without commenting any further on the merits of the present case as a whole and in view of the detention undergone by the petitioner, as also the fact that the trial is likely to take its own substantial time, particularly on account of the ongoing Covid-19 pandemic, the prayer of the petitioner for regular bail is allowed and he is ordered to be released on bail, subject to appropriate terms and conditions to the satisfaction of the Ld. Trial Court/Duty Magistrate, concerned.

7. Disposed off.

07.01.2021

Apurva

**(SUDIP AHLUWALIA)
JUDGE**

1. Whether speaking/reasoned: Yes/No

2. Whether reportable: Yes/No