

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

208+102

**CRM-M-51097-2021 (O & M)
Date of Decision:21.12.2021**

HARI RAM

...PETITIONER

VERSUS

STATE OF HARYANA

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Ms. Aashna Gill, Advocate
for the petitioner.

Ms. Deepshikha Chauhan, AAG, Haryana.

Mr. Ajay Kripal Singh, Advocate
for the complainant.

SUVIR SEHGAL, J.(ORAL)

Heard through video conferencing.

CRM-44037-2021

Application is allowed.

Annexures P-11 and P-12 are taken on record.

Main Case

Vide the instant petition filed under Section 438 of Code of Criminal Procedure, 1973, the petitioner seeks pre-arrest bail in case FIR No.29 dated 06.11.2021, registered under Sections 376, 452 and 506 of IPC, 1860, at Police Station Women, District Kurukshetra, Annexure P-1.

FIR, Annexure P-1, came to be registered on the statement of the prosecutrix on the allegation that she met Hari Ram, present petitioner, in Pehowa, who claimed that he was posted as Manager in Society Ishak and will get her employed there. They started talking on the phone and the petitioner started insisting on meeting her. On the occasion of *Bhaiya dooj*, she called Hari Ram to her house and on finding her alone, he took advantage of the situation and raped her. While leaving, he threatened that in case she disclosed the incident to anyone, he will kill her.

Counsel for the petitioner urges that FIR, Annexure P-1, has been registered by the prosecutrix at the behest of Batheri Devi, sister-in-law of the petitioner, with whom there is a property dispute and the allegations levelled in the complaint are absolutely false. A reference has been made by the counsel to the litigation pending between the petitioner and Batheri Devi, who is also facing proceedings under Section 182 Cr.P.C. It is her argument that the story put forth in the FIR is highly improbable and the petitioner is innocent.

Per contra, learned State counsel, who is assisted by counsel for the complainant has opposed the petition and has made a reference to the status report filed by way of an affidavit of Deputy Superintendent of Police, Shahabad, District Kurukshetra. Upon instructions from L/ASI Mamta, State counsel submits that the statement of the prosecutrix recorded under Section 164 Cr.P.C. is in inconsonance with the accusation levelled in the FIR. She submits that after her medical examination, the doctor has opined that the possibility of sexual intercourse cannot be ruled out. State counsel submits that during investigation it has been found that 17 telephone calls were exchanged between the petitioner and the prosecutrix, out of which 15 calls

were made by the petitioner. She urges that the argument raised by counsel for the petitioner falls flat as she has not been able to connect Bhateri Devi with the prosecutrix.

I have considered the arguments addressed by counsel for the parties.

The petitioner is accused of committing a serious and grave crime. He has been specifically named by the victim in the FIR as well as in the statement recorded by her before the Magistrate under Section 164 Cr.P.C. In the MLR annexed with the status report, it has been opined that sexual assault cannot be ruled out. The stand taken by the petitioner that he has been falsely framed is a subject matter of trial and does not deserve any comment from this Court at this stage. This Court is of the opinion that keeping in view the totality of the facts and circumstances, custodial interrogation of the petitioner is imperative.

Finding no merit in the petition, it is ordered to be dismissed.

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

21.12.2021
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(SUVIR SEHGAL)
JUDGE

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No