

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

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CRM-M-52723-2021 (O & M)

Date of Decision: 21.12.2021

ASHU

...PETITIONER

VERSUS

STATE OF HARYANA

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Sarfaraj Anjum Mor, Advocate for the petitioner.

Ms. Deepshikha Chauhan, AAG, Haryana.

SUVIR SEHGAL, J.(ORAL)

Heard through video conferencing.

This is the first petition filed by the petitioner under Section 439 of Cr.P.C. for grant of regular bail in case FIR No.243, dated 21.04.2021 registered for offences under Sections 376-D and 506 IPC, 1860, at Police Station Panipat City, District Panipat, Annexure P-1.

FIR, Annexure P-1, has been registered on the statement of the victim/prosecutrix (name withheld) on the allegation that she was married with Ashu, present petitioner, in a temple set up in her house and has been living with him as his wife and she is 04 months pregnant. She has alleged that Ashu started staying in a separate accommodation after fighting with her. On 19.04.2021 at about 10.00 pm, Ashu called her and asked her to bring some food at the rented accommodation where he was staying as he was not well. When she went, she found Sandeep *Mistri* in his room with him. Both of them defiled her and threatened her not to disclose the incident to anyone. Sandeep is alleged to have made an obscene video of the incident.

Counsel for the petitioner contends that the petitioner has been falsely implicated and there is a delay of 02 days in lodging of the FIR. By placing reliance upon the Adhar Card, Annexure P-7, he submits that the age of the

prosecutrix is 48 years and not 25 years as is being claimed by her. It is his argument that the prosecutrix alleges that she got married with the petitioner, therefore, offence under Section 376 IPC is not made out.

Per contra, learned State counsel upon instructions from ASI Jitender, has opposed the petition. She has submitted that not only in the FIR, but even in the statement recorded under Section 164 Cr.P.C. as well as during her examination in Court, the prosecutrix has supported the case of the prosecution. Counsel submits that the petitioner is alleged to be accused of an offence of gang rape under Section 376-D IPC. As per her instructions, all the prosecution witnesses have been examined and the trial is at the stage of recording of the statement of the accused under Section 313 Cr.P.C.

Having considered the arguments addressed by counsel for the parties, this Court is not inclined to grant bail to the petitioner. The allegations against the petitioner are very specific. He raped the prosecutrix. The so-called marriage between the parties will be subject matter of trial, which would be dealt with by the trial court at an appropriate stage.

Considering the fact that the trial is at the fag end, the petition 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