

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

CRM-M-52166-2021

Date of decision : 17.12.2021

Mustak Ansari

.... Petitioner

Versus

State of Haryana

.... Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Rajesh Dhankar, Advocate
for the petitioner.

Mr. Vishal Kashyap, DAG, Haryana.

RAJESH BHARDWAJ, J. (ORAL)

Matter has been taken up through video conferencing via Webex facility in the light of the Pandemic Covid-19 situation and as per instructions.

Prayer in the present petition is for grant of regular bail to the petitioner in case FIR No.78 dated 19.08.2021, under Sections 376(2) (n), 354-A, 506, 201 and 34 of the Indian Penal Code and Section 67-A of IT Act, registered at Police Station Woman Manesar, District Gurugram.

As per the factual matrix of the case, the present FIR was lodged by the prosecutrix wherein, it was stated that she got acquainted with Mustak Ansari i.e. the petitioner in connection with the job in IR company. Later on, he developed sexual relationship with her on the pretext of granting her a job. He threatened to kill her and her husband if the same is disclosed to anyone. She alleged that she kept quiet due to the threat given

by the petitioner. Lastly, he established sexual relationship on 14.06.2021. When the prosecutrix made it clear to the petitioner that she is going to lodge a complaint to the police against him, he gave beatings to her. Finally, the FIR was lodged. The request was made to take the legal action against the accused. The investigation commenced and the petitioner was arrested on 25th August, 2021. The petitioner has approached the learned Additional Sessions Judge (Fast Track Court), Gurugram for grant of bail. After hearing both the parties, he declined the prayer made by the petitioner vide his order dated 3rd December, 2021. Aggrieved by the same, the petitioner approached this Court by way of filing the present petition.

Learned counsel for the petitioner vehemently contends that the allegations in the FIR are totally cock and bull story. He submits that the petitioner as well as the complainant, both are of the age of majority and by no stretch of imagination, the offence as alleged is made out against the petitioner. He submits that even if the allegations in the FIR are taken to be true then the facts and circumstances of the case would show that it was a consensual relationship and hence, no offence under Section 376 IPC as alleged is made out against the petitioner. He has submitted that the false implication of the petitioner is further strengthened from the fact that now the prosecutrix has been examined by the trial Court wherein, during her deposition, she has categorically deposed that accused Mustak Ansari who was present in the Court has neither sexually exploited her nor he committed any wrongful act with her by force at any point of time. She further deposed that neither the petitioner threatened her at any point of time nor gave her beatings. Hence, on the request of learned Public Prosecutor,

she was declared hostile by the trial Court. He submits that the prosecutrix is the age of majority and she has not supported the case of the prosecution. There is no other reliable evidence left with the prosecution against the petitioner and hence, his further incarceration is totally unwarranted.

Learned State counsel, on instructions from ASI Suman, has opposed the submissions made by learned counsel for the petitioner. He submits that there are specific allegations made by the prosecutrix against the petitioner and the case was duly investigated and the challan was submitted. However, the State counsel candidly acknowledges that the prosecutrix has not supported the case of the prosecution. He submits that in all, there are 15 prosecution witnesses, out of which, 05 witnesses have been examined till date.

I have heard learned counsel for the parties and perused the records.

Petitioner is behind the bars since 25th August, 2021. The petitioner as well as the complainant, both are of the age of majority. The prosecutrix has been examined by the trial Court and I have perused her deposition before the Court, wherein she has not supported the case of the prosecution and was declared hostile. The prosecution has in all 15 prosecution witnesses, out of which, 05 witnesses have been examined.

In the overall facts and circumstances of the case, it is apparent that the trial of the case will take sufficient time and no useful purpose will be served by keeping the petitioner in custody for such a long time. Keeping in view the abovesaid facts, this Court finds that learned counsel for the petitioner has succeeded in making out a case for grant of regular

bail. Accordingly, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail/surety bonds to the satisfaction of the concerned trial Court/Duty Magistrate. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

17.12.2021
m. sharma

(RAJESH BHARDWAJ)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No

MAMTA
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I attest to the accuracy and
integrity of this document