

CRM-M-1958 of 2022 (O&M)

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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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CRM-M-1958 of 2022 (O&M)
Date of decision:15.07.2022

Dinesh Kumar @ Dinesh

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. M.S.Sachdev, Advocate
for the petitioner.

Mr. Prabhjot Singh Walia, AAG, Punjab.

SUVIR SEHGAL, J. (Oral)

CRM No.1466 of 2022

Application is allowed as prayed for.

Exemption from filing certified copies of Annexures P-1 to P-3
is granted.

CRM No.19363 of 2022

Application is allowed as prayed for.

Annexures P-4 to P-12 are taken on record.

CRM-M-1958 of 2022

Instant petition has been filed under Section 439 Cr.P.C.,
seeking grant of regular bail to the petitioner in case FIR No.79 dated
20.07.2019 registered under Sections 376, 384, 328, 120-B of Indian Penal
Code, 1860 at P.S.Cantt., Jalandhar, District Jalandhar (Annexure P-1).

As per the version of the prosecution, FIR (Annexure P-1) has been registered on the statement of a 31 year old married lady on the allegation that Dinesh (present petitioner), who used to get rakhi tied from her, on finding an opportunity on 14.03.2019, when her husband was away, came to her house, mixed some intoxicant in a consumable item and raped her when she was unconscious. Thereafter, he started blackmailing her.

Counsel for the petitioner contends that allegations levelled against the petitioner are false as the petitioner, prosecutrix and her husband were colleagues in the police department. He submits that in fact, there was some matrimonial dispute between the prosecutrix and her husband and the petitioner was roped in, on some suspicion. According to the counsel, there is an unexplained delay of 04 months in lodging the FIR. By referring to the testimonies, Annexures P-4 to P-9 of the prosecutrix and other crucial witnesses, counsel urges that they have not supported the case of the prosecution. He asserts that petitioner, who is in custody since 25.05.2021, deserves to be released on bail as the trial is likely to take time to conclude.

Per contra, State counsel, upon instructions from ASI Chain Singh, has opposed the petition on the ground that the allegations levelled against the petitioner are serious and grave. He submits that the prosecutrix has supported the accusation in her statement under Section 164 Cr.P.C. Still further, he submits that even though the petitioner was a member of disciplined force, he evaded the process of law and was declared as Proclaimed Offender and surrendered four months later, before the Trial Court on 24.05.2021. As per his instructions, 09 out of total 15 prosecution

witnesses have been examined.

Having considered the arguments addressed by counsel for the parties, this Court is *prima facie* of the view that complicity of the petitioner in the offence would remain subject matter of debate before the Trial Court. The petitioner, who is in custody for the last more than 01 year and 01 month, deserves to be released on bail as the trial is not likely to conclude in immediate future and the material prosecution witnesses have been examined.

Without delving into the merits or demerits of the arguments addressed by counsel for the parties, petition is allowed and the petitioner is ordered to be released on bail on furnishing **heavy bail/surety bonds** to the satisfaction of the Trial Court/Duty Magistrate concerned.

Trial Court may impose any other condition which it deems appropriate to obviate the possibility of any default by the petitioner.

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

July 15, 2022
savita

(SUVIR SEHGAL)
JUDGE

Whether Speaking/Reasoned	Yes
Whether Reportable	Yes