

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

CRM-M-1793-2022

Date of Decision: September 29, 2022

Rajender

.....Petitioner

Versus

State of Haryana and another

.....Respondents

CORAM: HON'BLE MR.JUSTICE RAJESH BHARDWAJ

Present: Mr.Keshav Pratap Singh, Advocate with
Ms.Tanu Priya Singh, Advocate and
Mr.Deepinder Singh Walia, Advocate
for the petitioner.

Mr.B.S.Virk, DAG, Haryana.

Mr.Y.D.Kaushik, Advocate
for respondent No.2.

.....

RAJESH BHARDWAJ, J.(ORAL)

Prayer in the present petition filed under Section 439 Cr.P.C. is for grant of regular bail to the petitioner in a case FIR No.231, dated 19.08.2021, registered under Sections 323, 376, 511, 452, 506 IPC, at Police Station Kheri Pul, Faridabad, District Faridabad.

Adumbrated facts of the case are that FIR was lodged on the statement of the prosecutrix wherein it was alleged that on the date of occurrence at about 9.30 p.m. when she was present in the house then Rajender, i.e. the petitioner, entered her house and caught hold her from behind. Despite her resistance, he dragged her and made an attempt to rape her. Thereafter, he gave kick blows in her abdomen and threatened her to be killed. When her husband intervened, then the petitioner gave stick blows to her. FIR was lodged and the investigation commenced. The prosecutrix as well as the petitioner both were medically examined on the

same day. The petitioner was arrested on 02.12.2021. He approached the Court of Additional Sessions Judge, Fast Track Court, Faridabad, praying for grant of bail, who after hearing the parties, declined the same vide its order dated 24.12.2021. Aggrieved by the same, the petitioner has approached this Court by way of filing the present petition for grant of bail.

Counsel for the petitioner has submitted that lodging of the FIR against the petitioner is nothing but an abuse of the process of the Court. It is submitted that both the parties are related to each other and a civil suit regarding property is pending between both the parties. He submits that in the civil suit, application filed under Order 39 Rules 1 and 2 CPC has been allowed by the learned District Judge vide its order dated 24.12.2021 in favour of the petitioner side and on account of the same, the dispute in question had taken place and the petitioner was implicated in this case. He has drawn attention of this Court to the MLR of both the petitioner and that of the prosecutrix. He submits that the petitioner has no criminal antecedents and even otherwise the prosecutrix already stands examined and thus, he is not in a position to influence the prosecution witnesses. He submits that in the overall facts and circumstances, the petitioner deserves to be granted bail.

However, counsel for the complainant has opposed the submissions made by learned counsel for the petitioner. He has submitted that there are specific allegations of attempt to rape against the petitioner. Not only this, he has caused injuries to the complainant and the same are corroborated by MLR of the prosecutrix. He has submitted that the petitioner does not deserve the concession of bail.

On the other hand, learned State counsel has submitted that

after the dispute, FIR was lodged and during investigation both the sides were medically examined. He has submitted that in all, there are 11 prosecution witnesses out of which 7 already stands examined including the prosecutrix. He further submits that as per the instructions received, no other case is pending against the petitioner.

Heard.

Admittedly, both the sides are related to each other. Civil litigation is also pending between both the sides. In the occurrence, both the sides suffered injuries. As per statement made by learned State counsel there is nothing on record to show that petitioner has any criminal antecedent. On the other hand, majority of the prosecution witnesses including the prosecutrix already stand examined and hence probability of the petitioner influencing the prosecution witnesses also do not survive. Though the allegations and counter allegations would be assessed by the trial Court on the appreciation of the evidence to be led by the parties before it, however, in the overall facts and circumstances of the case, I am of the opinion that learned counsel for the petitioner has been able to make out a case for grant of regular bail to the petitioner.

Accordingly, the present petition is allowed and the petitioner is ordered to be released on bail to the satisfaction of the concerned trial Court/Duty Magistrate.

Nothing said hereinabove shall be treated as an expression of opinion on the merits of the case.

September 29, 2022
meenuss

(RAJESH BHARDWAJ)
JUDGE

1. Whether speaking/reasoned ?
2. Whether reportable ?

Yes/No
Yes/No