

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-2277-2022 (O&M)

DATE OF DECISION: MAY 18, 2022

MUBARIK

...PETITIONER

VERSUS

STATE OF HARYANA

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ.

PRESENT: MR. PARAMVEER SINGH, ADVOCATE FOR THE PETITIONER.
MR. BHUPENDER SINGH, DAG, HARYANA.

MANOJ BAJAJ, J.(ORAL)

Petitioner has filed this petition under Section 439 Cr.P.C. for grant of regular bail pending trial in case FIR No.81 dated 28.4.2020, under Section 354-A, 365, 376-D IPC, Police Station Sanoli, District Panipat, who is in custody since his arrest on 12.5.2020.

The above FIR was lodged at the instance of the prosecutrix, wherein it was alleged that in the evening of 27.4.2020, when her nephew Salman left her at Rana Majra Yamuna Ghat as she wanted to go to her village at Khurgana and her husband was at Basera Ghat on the other side of Yamuna Ghat, then Mubarik met her. She asked Mubarik to stay there alongwith her as it was getting dark and her husband was about to arrive. Thereafter, Mubarik called her husband by borrowing a mobile from a passer-by and informed him that they were standing there, however, her husband could not trace them. In the meantime, Mubarik called his two friends who took her to a room built in the fields, where Mubarik raped her and thereafter Bilal and Ansar also raped her. Then they all took her to

bridge of village Rana Majra, where Farooq kissed her and touched her inappropriately. On these broad allegation, the present FIR was registered.

Learned counsel for the petitioner has argued that as per the allegations in the FIR, the complainant was waiting at a place to meet her husband who was also present at a nearby place, but she went alongwith the petitioner. According to him, the allegations in the FIR do not appeal to prudence and the petitioner was falsely implicated. He has further referred to the deposition of the prosecutrix Annexure P-2 wherein she neither supported the prosecution case, nor identified the petitioner as the person who violated her. He has further produced the order 13.8.2020, whereby the co-accused of the petitioner has already been released on bail. He prays for bail.

On the other hand, learned State counsel assisted by PSI Arvind Kumar while opposing the prayer does not dispute this fact that the co-accused of the petitioner is on bail and the material witnesses including the prosecutrix have already been examined. He further states that out of total 38 prosecution witnesses, 25 witnesses have been examined.

Considering the above background, the custody of the petitioner, the fact that prosecutrix has been examined and that co-accused of the petitioner has already been released on bail, the further detention of the petitioner may not be necessary for any useful purpose, as the trial would take considerable time to conclude.

Resultantly, without meaning any expression of opinion on the merits of the case, it is ordered that the petitioner be released on regular bail in the above case, subject to his furnishing requisite bail bonds/surety bonds

to the satisfaction of the trial Court concerned.

The petition is allowed.

May 18, 2022
Gulati

(MANOJ BAJAJ)
JUDGE

Whether Reportable : Yes/No

Whether Speaking/Reasoned : Yes/No