

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

231

**CRM-M-5677-2022
Decided on : 15.02.2022**

Akash @ Vishu

... Petitioner(s)

Versus

State of Haryana

... Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

PRESENT: Mr. Inderjeet Singh, Advocate
for the petitioner(s).

Mr. Karan Sharma, DAG, Haryana
assisted by SI Rajwanti.

MANJARI NEHRU KAUL, J. (Oral)

The instant petition has been filed under Section 439 Cr.P.C. for grant of bail to the petitioner in case FIR No. 95, dated 18.06.2021, under Sections 376(2)(n), 385 and 506 of IPC, registered at Police Station Women, District Karnal (annexed as Annexure P-1).

Learned counsel for the petitioner while drawing the attention of this Court to the allegations levelled in the FIR, which has been annexed as Annexure P-1 with the paper-book *inter alia* submits that on the face of it, it was evidently a case of consensual relationship between the petitioner and the prosecutrix, who admittedly is a married woman having two children. Learned counsel submits that as per allegations the petitioner after befriending the prosecutrix, over Instagram started messaging and talking with her, and subsequently pressurizing her to share her telephone number with him, else he would forward all the messages exchanged between them to her husband. Learned counsel further submits that as per the prosecutrix, it was on account of the threats extended and due to fear, she was left with no other option but to provide her phone number to the petitioner. Learned counsel further submits that the allegations levelled that the petitioner had threatened and blackmailed the prosecutrix of forwarding their Instagram messages to her husband, rather lent support to the petitioner and the prosecutrix being in a consensual relationship, else there was no reason for the prosecutrix to buckle under the pressure of the petitioner and accompany

him to a hotel in Jagadhari from Karnal, where, allegedly, she was raped on a number of occasions. He still further submits that it cannot be digested that the prosecutrix, who is employed as a cashier in a Bank, would have been wearing so many gold ornaments on her person, as detailed by her in the FIR and the petitioner would have mustered the courage to go to her workplace, threaten her and force her to accompany him to a hotel and that too in Jagadhari, where she was allegedly repeatedly raped and robbed of all her ornaments. Learned counsel thus submits that it is highly improbable that in the given circumstances, the prosecutrix would have quietly accompanied the petitioner to Jagadhari without raising any hue and cry, and still further after being allegedly robbed of her gold ornaments on earlier occasions, she would have yet again worn gold jewellery on her person. Learned counsel in support has also drawn the attention of this Court to Annexure P-2A which is statement under Section 161 Cr.P.C. of one Dalip Singh, manager of the hotel in Yamunanagar (Jagadhri), where the prosecutrix was allegedly raped by the petitioner on two dates, wherein he had clearly stated that the rooms had been booked by both the petitioner and the prosecutrix and they had also given a copy of their respective Aadhaar Cards, which were kept by him as record. Learned counsel submits that since the husband of the prosecutrix learnt about her illicit relations with the petitioner, she concocted a false story to save her marriage and planted the case in question. He further submits that since investigation has been completed and challan stands presented, further incarceration of the petitioner would not serve any useful purpose, as charges have not yet been framed and the trial would thus take considerable time to conclude. Learned counsel prays that in the circumstances, the petitioner who has now been in custody since 08th July, 2021, be extended the concession of bail.

Per contra, learned State counsel while opposing the prayer and submissions made by the counsel opposite, on instructions from SI Rajwanti, has submitted that there are serious allegations levelled against the petitioner of having committed rape upon a married woman and also having robbed her of her jewellery on a couple of occasions. He has submitted that the delay in the framing of the charges has been on account of the pandemic COVID-19 and the charges are likely to be framed on the next date of hearing.

I have heard learned counsel for the parties and perused the

material on record.

From the facts and circumstances as enumerated hereinabove and coupled with the allegations levelled in the FIR in question, it *prima facie* appears to be a case of consensual relationship. The petitioner has been in custody since 08th July, 2021 and admittedly is not involved in any other case, much less, of similar nature. Trial is unlikely to conclude in the near future.

This Court, therefore, deems it appropriate to extend the concession of bail to the petitioner during the trial. The petition is thus allowed and the petitioner is admitted to bail to the satisfaction of the concerned Trial Court/Duty Magistrate. However, it is made clear that any observation made herein shall not be construed as an expression of opinion on the merits of the case.

(MANJARI NEHRU KAUL)
JUDGE

February 15, 2022

J.Ram

Whether speaking/reasoned: *Yes/No*
Whether Reportable: *Yes/No*