

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(110)

CRM-M-4796-2022 (O&M)

Date of decision: 23.02.2022

Pawan Soni

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Gaurav Singla, Advocate for the applicant-petitioner.

Ms. Mahima Yashpal, Deputy Advocate General, Haryana.

...

SUVIR SEHGAL, J. (Oral)

CRM-5709-2022

For the reasons given in the application, it is allowed.

Hearing of the main case is preponed to today and it is ordered to
be taken on Board.

CRM-M-4796-2022

Instant petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail in FIR No.106 dated 04.10.2021, registered for offences under Sections 323, 341, 506 and 376(2)(n) of the Indian Penal Code, 1860 (Offences under Sections 379-A and 120-B were deleted later on), at Women Police Station, Gurugram, District Gurugram (Annexure P-1).

As per the case of the prosecution, FIR (Annexure P-1) came to be registered on the complaint of a 32 year old divorcee on the allegation that her bio data was uploaded on shadi.com by her father and Pawan Soni (present petitioner), who was working as a Zonal Manager in a private

company, contacted her after getting mobile number from her father. They started meeting each other and the petitioner proposed marriage to her. The petitioner even met the family members of the complainant, who accepted the petitioner. However, the petitioner kept delaying marriage on one pretext or the other. In July, 2020, he forcibly developed physical relationship with her, took her to different places and maintained sexual relations with her. From 01.07.2021, they started staying together. She came to know from his relative that the first marriage of the petitioner is subsisting, he has a young daughter and both his wife and daughter are staying at his paternal home at Jaipur. When she confronted him, he threatened her and tried to forcibly committed sexual assault with her. Out of fear, she did not have the courage to report the incident and changed her accommodation, but the petitioner located her and has been compelling her to stay with him, otherwise he has threatened to make viral her objectionable photos and videos.

Counsel has contended that though the complainant has alleged that she was deceived, but in her testimony recorded before the Court when she appeared as PW-2, she has categorically stated that the relationship with the petitioner was consensual and without any coercion. Reliance has also been made by the counsel to the MLR of the complainant (Annexure P-3), to submit that the last alleged sexual assault was three months before her examination and there was no injury marks on her body. Counsel urges that the petitioner, who is in custody since 09.10.2021, is no longer required for custodial interrogation, therefore, the petitioner deserves to be enlarged on bail.

Per contra, State counsel, upon instructions from L/ASI, Surekha, has opposed the petition and has submitted that there are specific and categorical allegations against the petitioner in the FIR, which have been duly supported by the prosecutrix in her statement recorded under Section 164, Cr.P.C. Upon further instructions, she submits that one out of 12 prosecution witnesses, has been examined.

Having considered the circumstances, this Court is of the view that the involvement of the petitioner in the alleged crime would remain debatable and the petitioner, who is in custody for the last more than four months, is entitled to be released on bail as the most material witness i.e. the complainant has been examined and the trial, which is in at initial stage will take time to conclude.

Without commenting anything on the merits of the case, the petition is allowed and the petitioner is ordered to be released on bail on furnishing bail/surety bonds to the satisfaction of the concerned Trial Court/Duty Magistrate.

It is clarified that nothing said herein above shall be construed to be an expression on the merits of the case.

(SUVIR SEHGAL)

JUDGE

23.02.2022

Pardeep

Whether Speaking/Reasoned	Yes
Whether Reportable	Yes