

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

228

CRM-M-5475-2022 (O&M)

Date of decision: 15.02.2022

Partap Singh

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Yogesh Goel, Advocate
for the petitioner.

Mr. Karan Sharma, DAG, Haryana
for the respondent-State.

MANJARI NEHRU KAUL, J. (ORAL)

This is the first petition filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the petitioner in case FIR No.305 dated 29.10.2021 lodged under Sections 376, 120 B and 506 IPC registered at Police Station Sadar Mahendergarh, District Mahendergarh.

Learned counsel for the petitioner submits that the prosecutrix and the petitioner, who are first cousins, had been in a consensual relationship. While inviting the attention of this Court to the allegations levelled in the FIR which has been annexed as Annexure P-1, learned counsel submits that a highly improbable story has been brought forth that the petitioner first raped the prosecutrix at her matrimonial home in Nimbi and then took her to Jaipur on the pretext that her brother was unwell. Learned counsel submits that it cannot be

digested that in case the prosecutrix had indeed been raped by the petitioner and that too in her matrimonial home at Nimbi, she would have firstly not disclosed about the alleged crime to her family, and still, thereafter accompanied the petitioner to Jaipur by believing him that her brother was unwell there. Learned counsel submits that the prosecutrix had in fact accompanied the petitioner of her own accord and all the allegations levelled that she was raped and thereafter made to accompany the petitioner on the pretext of her brother being unwell was nothing but a bundle of lies. Learned counsel submits that the entire family of the prosecutrix including her husband were well aware about her relationship with the petitioner and during her absence while she was at Jaipur, her husband committed suicide. Learned counsel thus submits that in the facts and circumstances, more so, since the challan stands presented, charges framed and prosecution evidence unlikely to commence in the near future, he be extended the concession of bail as he has now been in custody since 02.11.2021 and his further incarceration would not serve any useful purpose.

Per contra, learned State counsel while opposing the prayer of counsel opposite on instructions from L/ASI Mukesh Kumari, submits that there are serious allegations against the petitioner of having taken the prosecutrix to Jaipur on the pretext of her brother being unwell and thereafter having raped her.

I have heard learned counsel for the parties and perused the material placed on record.

In the facts and circumstances as enumerated hereinabove, it appears to be a prima facie case of consensual relationship between

the parties. The trial is unlikely to conclude in the near future as prosecution evidence is due to commence only on 09.05.2022. The petitioner is not involved in any other criminal case much less of similar nature. The instant petition is allowed. The petitioner be admitted to bail to the satisfaction of the trial Court/Duty Magistrate concerned. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

15.02.2022

Vinay

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No