

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

CRM-M-6351-2022

Date of decision : 21.02.2022

Mukesh

.... Petitioner

Versus

State of Haryana

.... Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. S.K. Yadav, Advocate
for the petitioner.

Mr. Vishal Kashyap, DAG, Haryana.

Mr. Vikram Bishnoi, Advocate
for the complainant.

RAJESH BHARDWAJ, J. (ORAL)

Matter has been taken up through video conferencing via Webex facility in the light of the Pandemic Covid-19 situation and as per instructions.

Prayer in the present petition is for grant of regular bail to the petitioner in case FIR No.157 dated 29.05.2020, under Sections 363, 376-D, 342, 506, 34 of the Indian Penal Code, registered at Police Station Nangal Chaudhary, District Narnaul.

As per the factual matrix of the present case, the present FIR was lodged by husband of the prosecutrix wherein, it was alleged that his wife aged 35 years having two kids, went to PNB Bank Nizampur Branch on 22nd May, 2020 to withdraw some money but she did not return. He

searched enough but could not find her. It was further mentioned that the marriage was solemnized 12 years ago and his wife be searched.

Thereafter, investigation commenced and the prosecutrix was recovered from the custody of the co-accused namely, Sabir Khan on 4th June, 2020.

Learned counsel for the petitioner has drawn the attention of this Court to the statement of the prosecutrix recorded under Section 161 Cr.P.C. wherein, she stated that she went with some known person with her own free will. It was further stated that nobody has committed any wrong act or teased her. The custody of the prosecutrix was taken by her brother Rajinder. Thereafter, he submits that the statement of the prosecutrix was recorded under Section 164 Cr.P.C on 6th June, 2020. In her statement under Section 164 Cr.P.C., she admitted that she was known to Sumer Singh and on 22nd May, 2020 at about 09:00 am, she went to railway station and met Sumer Singh who offered to drop her at her house which she accepted. She further stated that two more persons were there in the vehicle. She was thereafter, taken to a room and Sumer Singh committed wrong act with her several times. On 4th June, 2020, the police came and rescued her and her medical was conducted. He submits that the main allegations since beginning are against the co-accused Sumer Singh and there was not even a whisper regarding the present petitioner. He submits that the prosecutrix is a woman of the age of majority and can never be imagined to have been pressurized or forced by anybody as alleged. Learned counsel submits that now the trial is going on and the trial Court has issued the summons to the prosecutrix for recording the evidence of the prosecutrix. However, despite issuing summons twice, the prosecutrix is not turning up before the trial

Court as she was found not available at the given address. He submits that the petitioner has been falsely implicated in the FIR and is behind the bars since 22.12.2020 and overall conduct of the prosecutrix shows that the trial is being prolonged to keep the petitioner behind bars. He submits that as co-accused Virender has already been granted benefit of regular bail vide order dated 09.12.2021 passed in CRM-M-21077-2021 and on the basis of parity, the petitioner deserves to be enlarged on bail.

Learned counsel for the complainant has opposed the prayer made by counsel for the petitioner and has stated that due to active role played by him, petitioner is not entitled to be released on bail.

On the other hand, learned State counsel vehemently opposes the submissions made by learned counsel for the petitioner. He on instructions from ASI Rajmati submits that the petitioner was not named in the statement of prosecutrix recorded under Section 164 Cr.P.C., however, he has played an active role in the alleged offence. He candidly acknowledged that the summons are being issued to the prosecutrix for her examination before the trial Court but she is not found available at the given address. He submits that in all, there are 19 witnesses and no one has been examined till date.

I have heard learned counsel for the parties and perused the records.

Petitioner is behind the bars since 22nd December, 2020. The alleged occurrence took place on 22nd May, 2020 and for the first time, his name was mentioned by the prosecutrix in her supplementary statement recorded on 15th June, 2020. The prosecutrix so far, has not turned up for deposing before the Court. The main allegations are also found to have been made against the co-accused-Sumer Singh. Co-accused Virender has already been allowed bail by this Court vide order dated 09.12.2021.

In the overall facts and circumstances of the case, it is apparent that the trial of the case will take sufficient time and no useful purpose will be served by keeping the petitioner in custody for such a long time. Keeping in view the abovesaid facts, this Court finds that learned counsel for the petitioner has succeeded in making out a case for grant of regular bail. Accordingly, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail/surety bonds to the satisfaction of the concerned trial Court/Duty Magistrate. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

21.02.2022
m. sharma

(RAJESH BHARDWAJ)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No