

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-7403-2022

Date of Decision: March 22, 2022

Amit

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. Mohit Rathee, Advocate,
for the petitioner.

Mr. Vikas Bhardwaj, AAG, Haryana.

Vivek Puri, J.

Amit-petitioner is seeking regular bail in the case bearing FIR No. 250, dated 03.10.2019, registered under Sections 34, 354D(2), 376(2)(n), 384 of the Indian Penal Code, at Police Station Narwana Sadar, District Jind.

Briefly, the allegations putforth in the FIR are to the effect that the petitioner being neighbourer had been visiting to the house of the prosecutrix. On 16.08.2018 at about 10-11.00 AM, the brother of the petitioner came to the house of the prosecutrix and told her that his mother is calling her. Accordingly, the prosecutrix went

to the house of the petitioner where the petitioner along with his brother namely Moju were present. The petitioner caught hold the prosecutrix from her arms, laid her on a cot, broke the string of her trouser (salwar) and committed rape upon her. The brother of the petitioner kept guarding the house. The petitioner told the prosecutrix that his brother has captured the video and threatened to make the same viral in the event she disclosed the incident to anyone. The petitioner had been blackmailing the prosecutrix and committed rape upon her several times. On account of fear, she did not narrate the incident to anyone. The petitioner has also been threatening her by making telephonic calls. He also apologized for the mistake in the police station. Subsequently, he posted a letter at the matrimonial home of the petitioner using nasty words.

It has been argued by the learned counsel for the petitioner that there is a delay of one year and two months in lodging the FIR and the material witnesses including the prosecutrix have been examined. The petitioner is in custody for a period of two years and five months.

On the contrary, it has been argued by the learned State counsel that there is a categorical and specific allegation of commission of forcible sexual intercourse upon the prosecutrix. The petitioner had blackmailed the prosecutrix on the pretext that the video of the incident has been prepared and the same will be made viral in the event, she disclosed the incident to anyone. Furthermore, during the course of the investigation, the prosecutrix has supported the version of prosecution.

It is significant to note that at the earlier instance the bail application of the petitioner has been dismissed by a speaking order dated 04.01.2021 passed in CRM-M-40551-2020. The bail application was dismissed by recording the following observations:-

"In the instant case, the petitioner has repeatedly committed forcible sexual intercourse upon the prosecutrix by blackmailing her. The petitioner had represented to the prosecutrix that a video clipping of the incident of having forcible sexual intercourse has been prepared and the same shall be made viral in the event she narrated the incident to anyone. In such a situation, the delay in

lodging the FIR becomes inconsequential as the petitioner might have been reluctant to report the matter to the police to save her honour and that of the family. There is specific and categoric allegation with regard to commission of forcible sexual intercourse by the petitioner upon the prosecutrix. The statement of the prosecutrix is yet to be recorded in the trial Court."

It may be true that at the earlier instance, one of the reasons for declining the bail was to the effect that the statement of the prosecutrix was yet to be recorded, however, the other contentions as put forth by the petitioner were also considered and the bail was declined. Significantly, the prosecutrix during the course of trial has supported the version of the prosecution. Furthermore, the petitioner is in custody for a period of 02 years, 05 months and 17 days. Learned State counsel has pointed out that out of 16 witnesses, only 04 have been examined. The learned State counsel has also pointed out that the delay in trial is on account of the restricted hearing of the Courts due to Covid-19 pandemic. As such, no significant change

of circumstances is made out to extend the concession of bail to the petitioner.

The present petition is dismissed.

It may be mentioned here that in view of decline in the number of covid-19 cases, the normal functioning has more or less resumed in the Courts. In such circumstances, it is observed that in the event the prosecution evidence is not concluded within a period of four months, the petitioner shall be at liberty to approach this Court for bail afresh. It is also expected that the petitioner shall not seek adjournment to delay the disposal of the case and cooperate in expeditious disposal in the matter.

March 22, 2022
anju/vkd

[Vivek Puri]
Judge

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