

215 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-8308-2022
Decided on : 03.03.2022

Majid @ Majji

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Ms. Rosi, Advocate
for the petitioner.

Mr. Tanuj Sharma, AAG, Haryana.

Manjari Nehru Kaul, J.(Oral)

Instant petition has been filed under Section 439 Cr.PC for grant of regular bail to the petitioner in case FIR No.07 dated 05.03.2021 under Sections 376, 354-C, 509, 120B, 506 IPC (Sections 201 IPC and Section 67 of IT Act added later on while Section 120-B IPC deleted) registered at Police Station Women, District Nuh.

Learned counsel for the petitioner *inter alia* contends that the petitioner has been in custody since 08.04.2021 and the trial is unlikely to conclude in the near future as 7 prosecution witnesses remain to be examined. She further contends that the petitioner has been falsely implicated in the case in hand as there was not only a delay of almost six months in lodging of the FIR in question from the date of alleged occurrence but even while stepping into the witness box the prosecutrix failed to support the case of the prosecution. She further submits that FSL report also pointed out to the innocence of the petitioner as no semen was

detected on the exhibits sent to it.

Per contra, learned State counsel while vehemently opposing the prayer and submissions made by counsel opposite has submitted that there are serious allegations levelled against the petitioner of raping the prosecutrix, clicking her nude photographs and preparing an obscene video also. He further submits that since the prosecutrix was threatened not to disclose about the commission of rape to anyone, else her obscene pictures and video would be made viral, she and her family were forced to keep the matter under wraps. While inviting the attention of this Court to the allegations levelled in the FIR, learned State counsel submits that it clearly stood reflected therein that soon after the occurrence in question, father of the prosecutrix went to the petitioner's parents, however, he too was not spared and was threatened with dire consequences. Thereafter when the marriage of the prosecutrix was fixed with some boy, the petitioner uploaded her nude photographs and obscene video on the social media and circulated it on various whatsapp groups. Learned State counsel still further vehemently disputed the submissions made by counsel opposite that the prosecutrix had failed to support the case of the prosecution during trial. He, while drawing the attention of the Court to the deposition of the prosecutrix (Annexure P-2) submitted that while stepping into the witness box as PW-3 the prosecutrix reiterated the allegations levelled in her statement recorded under Section 164 Cr.PC and had categorically deposed during her examination-in-chief recorded on 01.09.2021 that the petitioner after committing rape upon her on 05.09.2020 had clicked her obscene pictures and prepared a video. Learned State counsel submitted that no doubt the prosecutrix during her cross-examination recorded on 30.11.2021

took a 'U' turn and denied the factum of rape but it was very obvious that in the intervening period of two months between her examination-in-chief and cross-examination, she for reasons rather obvious had chosen to deny the allegations. It was also submitted that the FSL report was of not much relevance in the case in hand as she was medico-legally examined much after the alleged commission of crime and thus, the absence of semen on the case property would not come to the rescue of the petitioner.

Heard learned counsel and perused the relevant material on record.

In the wake of prima facie allegations levelled against the petitioner of committing rape upon the prosecutrix and thereafter circulating her obscene pictures and video on the social media coupled with the fact that only formal witnesses remain to be examined, this Court is not inclined to extend the concession of bail to the petitioner. The contention of learned counsel for the petitioner qua the prosecutrix not supporting the case of prosecution during her cross-examination would be a matter to be appreciated by the trial Court after considering the material on record and the evidence led.

Accordingly, the present petition stands dismissed. 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.

(MANJARI NEHRU KAUL)
JUDGE

03.03.2022
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Whether speaking/reasoned:
Whether reportable :

Yes/No
Yes/No