

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

205

CRM-M-8667-2022

Date of decision:22.12.2022

Billu

... Petitioner

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Keshav Pratap Singh, Advocate and
Mr. Rajat Singh, Advocate for the petitioner.

Ms. Mahima Yashpal, DAG, Haryana.

Mr. Rajesh Duhan, Advocate for
Mr. Baljeet Singh Nain, Advocate for the complainant.

SUVIR SEHGAL J. (ORAL)

This is the first petition filed by the petitioner under Section 439 of Cr.P.C. for grant of regular bail in case FIR No.184, dated 23.10.2021 registered for the offences under Sections 323, 328, 34, 342, 376 (2) (n), 377 and 506 of IPC, 1860, however, later on, Sections 328 and 34 of IPC were deleted, at Police Station Women, Karnal, District Karnal.

Case of the prosecution is that the above-mentioned FIR, has been registered on the complaint of a 35 years old married lady on the allegation that she and Billu, present petitioner, were in a live-in-relationship and had taken protection order from the High Court. Initially for a few days, the relations between them were smooth, but the

petitioner started intoxicating her, indulged in forcible sexual relations and threatened to kill her as well as her son. His brother-Rajbir and nephew-Mandeep also forced themselves upon her. She was being physically assaulted. It has also been alleged that many other persons also made physical relations with her. Thereafter, the accused left her at her matrimonial village in an unconscious state and tried to kill her by running his vehicle over her. Billu gave a false complaint dated 21.10.2021 against her husband and in-laws. She has stated that when she went to get her medical conducted, it was refused as the doctor told her to get an order from the Court.

Counsel for the petitioner submits that the petitioner was in a live-in-relationship with the prosecutrix, who was going through a bad marriage as her three children died in infancy. He submits that FIR No.109 dated 04.08.2021, Annexure P-1, was lodged by her husband under Sections 363 and 366 of IPC, a protection petition was instituted by the petitioner jointly with the prosecutrix before this Court, wherein the factum of their live-in-relationship has been mentioned and by order dated 08.09.2021, Annexure P-6, this Court disposed of the petition with a direction to the Superintendent of Police, Karnal, to look into the representation. Counsel submits that the police provided stay to the parties at a safe house at Karnal for a few days. Counsel for the petitioner submits that on 19.10.2021, the petitioner left the prosecutrix at her matrimonial village, where she was physically assaulted by her husband and his relatives and the present FIR has been registered on false allegations to enmesh the petitioner. Counsel submits that the

prosecutrix has been examined and there are inconsistencies in her statement under Section 164, Cr.P.C. as well as in her testimony. It is his argument that after investigation, although *challan* was presented against the petitioner, but the two co-accused, Rajbir and Mandeep, were found innocent. Counsel submits that the trial is at an initial stage, prosecutrix has been examined and the petitioner, who is in custody since 29.10.2021, deserves to be enlarged on bail.

Per Contra, learned State counsel, upon instructions from ASI Pushpa, has opposed the petition and has submitted that there are serious allegations against the petitioner and the co-accused. She submits that after her testimony was recorded, application under Section 319 of the Code has been submitted to summon Rajbir and Mandeep as additional accused, which is pending. It is her case that the prosecutrix supported her case when she stepped into the witness-box. Upon instructions, she submits that out of 12 prosecution witnesses, 04 have been examined.

I have heard counsel for the parties and considered their submissions.

Without adverting to the arguments and counter arguments addressed by counsel for the parties, this Court is *prima facie* of the view that the petitioner, who is in custody for the last almost 14 months, deserves to be enlarged on bail. His complicity in the crime and the role ascribed to him would be a subject matter of determination before the trial court. Still further, it may be noticed that the trial is at an incipient stage and is likely to take time to conclude as an application for summoning additional accused is pending before the trial court.

Petition is allowed. Petitioner is ordered to be enlarged on bail on furnishing bail/surety bonds to the satisfaction of the Trial Court/Duty Magistrate concerned.

It is clarified that any observation made hereinabove shall not be construed to be an expression of opinion on the merits of the case.

22.12.2022
sheetal

(SUVIR SEHGAL)
JUDGE

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No