

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

CRM-M-11886-2022

Date of Decision:-20.05.2022

Sandeep Kumar.

.....**Petitioner.**

Versus

State of Haryana.

.....**Respondent.**

CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present:- Mr. Satbir Singh Gill, Advocate for the Petitioner.

Mr. Praveen Kumar Aggarwal, DAG Haryana.

JASJIT SINGH BEDI, J. (ORAL)

The Prayer in this second petition is for the grant of regular bail under Section 439 Cr.PC in case FIR No.26 dated 25.06.2020 under Sections 376(2) H, 450, 506 IPC registered at Police Station Women Dabwali, District Sirsa.

The brief facts of the case are that the FIR came to be registered at the instance of Babli wife of Dalip with the allegations that she was married to Dalip son of Sohan Lal and was pregnant. On 24.06.2020 at about 9.10 am while she was sleeping in her house and her mother-in-law Dhanni Devi had gone to attend a marriage whereas her husband had gone for work, the petitioner-Sandeep Kumar came to her house on a motor cycle and grabbed her by putting a hand on her mouth, removed her Salwar and forcibly committed rape upon her. On hearing her noise, her mother-in-law,

namely, Dhanni Devi and neighbour Meeto came there and got freed her from the clutches of petitioner-Sandeep who fled away on the motor cycle.

The Counsel for the petitioner submits that Babli has been examined as PW-1 and has not supported the prosecution case against the petitioner and has infact stated that one unknown person had committed the offence in question. The Counsel for the petitioner has placed on record the statement of Dhanni Devi as PW-4 who has also stated that the prosecutrix had never informed her that it was the applicant who had committed the rape in question. To the similar effect are the statements of Dalip Kumar, PW-5 husband of the prosecutrix and Meeto PW-6. The Counsel further submits that the petitioner is in custody since 27.06.2020 and since all the material witnesses have turned hostile, the further incarceration of the petitioner is not required.

The Counsel for the State on the other hand submits that it is a heinous offence and the applicant does not deserve the concession of bail, though he admits the fact that the material witnesses have been examined and have not supported the case of the prosecution.

I have heard counsel for both the sides at length.

Admittedly, none of the witnesses including the prosecutrix have named the petitioner as the accused, who has committed the offence in question. The four material witnesses already stand examined out of a total of 18 witnesses and therefore, the trial is not likely to be concluded in near future. The petitioner is in custody since 26.06.2020.

Keeping in view the aforesaid facts and the period of custody undergone by the petitioner, without commenting on the merits of the case, the present petition is allowed and the petitioner-**Sandeep Kumar** son of

Hari Ram is ordered to be released on bail subject to his furnishing bail bonds and surety bonds to the satisfaction of learned CJM/Duty Magistrate, concerned.

If the petitioner indulges in similar offence for which he is currently charged, the State would be at liberty to move an application for cancellation of bail.

Petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

May 20, 2022
Vinay

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