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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-16729-2022

Date of Decision: 09.12.2022

SAMA SINGH

... PETITIONER

V/S

STATE OF HARYANA

... RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Ms. Tamanna Sharma, Advocate for
Dr. Kanu Sharma, Advocate for the petitioner.

Mr. Karan Garg, AAG Haryana.

Mr. S.R.Vaid, Advocate for the complainant.

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VIVEK PURI, J. (ORAL)

The petitioner is seeking regular bail in case bearing FIR No. 500 dated 15.11.2021 under Sections 354, 452, 506 IPC (Section 376 IPC added later on), registered at Police Station Naraingarh, District Ambala.

Custody certificate has been taken on record.

Briefly, the FIR has been registered on the basis of the statement of the prosecutrix alleging that the petitioner is residing in her neighborhood and had been teasing her and looking at her with bad intention on multiple occasions. The petitioner had been getting into her house when she was alone and outraging her modesty and also extending threats to her.

Learned counsel for the petitioner contends that there is no allegation with regard to the commission of rape in the FIR and the said allegations have been levelled in the statement recorded under Section 164 Cr.P.C. Furthermore, the statement of the prosecutrix during the course of

trial has been recorded. Although, in her statement recorded under Section 164 Cr.P.C., it has been alleged that the petitioner had been making physical relations with her and committing sexual assault for the last 4 years but the period has not been specified in the statement recorded in the trial Court. The petitioner is in custody for a period of 1 year and 23 days and so far only 1 out of 15 witnesses have been examined. She further submits that the prosecutrix has refused to get herself medico-legally examined.

Learned State counsel and counsel for the complainant have opposed the bail application on the score that there are specific and categorical allegations of commission of repeated rape attributed against the petitioner in the statement of the prosecutrix recorded under Section 164 Cr.P.C. and during the course of trial. Even at the earlier instance, the petitioner had been committing wrong with the prosecutrix and the matter was being amicably settled by way of two Panchayati compromises. Furthermore, it has not been disputed that the prosecutrix had refused to get herself medico-legally examined as the occurrence was old one.

It is significant to note that the first version of the case has been unfolded in the statement of the prosecutrix on the basis whereof FIR has been registered. In the said statement, there is no specific allegation with regard to commission of rape on repeated occasions spreading over a period of 4 years. The allegations with regard to commission of rape have emerged in the statement recorded under Section 164 Cr.P.C. Furthermore, the prosecutrix has not been medico-legally examined. The prosecutrix is stated to be a married lady, aged about 30 years. The statement of the prosecutrix during the course of trial has been recorded. As such, it cannot be said that

the petitioner can, in any manner, win over or influence her. So far only 1

out of 15 witnesses have been examined. The petitioner is in custody for a period of 1 year and 23 days and not involved in any other case. The conclusion of trial is likely to take some time and no fruitful purpose would be served by detaining the petitioner in further custody.

As such, sufficient mitigating circumstances are made out to extend the concession of bail to the petitioner. Therefore, without making any expression of opinion on the merits of the case, it is ordered that the petitioner be released on regular bail subject to his furnishing fresh bail bonds/surety bonds to the satisfaction of the concerned trial Court/Chief Judicial Magistrate/Duty Magistrate.

The petition is allowed.

09.12.2022

Janki

**(VIVEK PURI)
JUDGE**

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