

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

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CRM-M-19232-2022

Date of decision:16.12.2022

Pawan Verma

... Petitioner

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. K.C. Bhatia, Advocate
for the petitioner.

Ms. Mahima Yashpal, DAG, Haryana.

SUVIR SEHGAL J. (ORAL)

This is the second petition filed by the petitioner under Section 439 of Cr.P.C. for grant of regular bail in case FIR No.461, dated 09.11.2021 registered for the offences under Sections 323, 376 (2) (n), 379-B, 420, 467, 468, 471 and 506 of IPC, 1860, at Police Station Palam Vihar, District Gurugram, Annexure P-3.

FIR, Annexure P-3, has been registered on the statement of a 36 years old married lady (hereinafter referred to as “the prosecutrix”) on the allegation that about 06 months ago, she met Pawan (present petitioner), and some months ago, he took her to an apartment in Sector 10, forcibly had physical relations with her and has continued to do so thereafter by threatening her. He threatened to eliminate her husband, in case, she does not agree to his demand. She stopped answering his

phone, however, he prepared a fake marriage certificate. In October, 2021, she shifted to Hisar, but he started harassing her family. On 09.11.2021, he came to her house, created a ruckus and when she and her aunt opposed him, he assaulted her aunt.

Counsel for the petitioner has contended that there is an improvement in the version of the prosecutrix when she stepped into the witness-box and there are various inconsistencies in her deposition. Counsel for the petitioner urges that petitioner has been falsely implicated and the medical report does not support the case of the prosecution. Counsel submits that as per the allegations levelled in the FIR, petitioner was in a live-in relationship with the prosecutrix. He further submits that the petitioner, who is in confinement since 13.11.2021, deserves to be enlarged on bail. Counsel submits that the first petition filed by the petitioner was withdrawn vide order dated 10.02.2022, Annexure P-1, and thereafter the prosecutrix and the other material witnesses have been examined. By referring to Annexure P-14, counsel submits that the paternal aunt of the prosecutrix has expired.

Per Contra, learned State counsel, upon instructions from L/ASI Rekha, has opposed the petition and has submitted that there are specific allegations against the petitioner of sexually assaulting the prosecutrix. She submits that the petitioner prepared a fake marriage certificate and even chased her to her paternal home, where he created mischief. As per her instructions, 06 out of 10 prosecution witnesses have been examined.

Having considered the submissions made by counsel for the parties, this Court is *prima facie* of the view that the involvement of the petitioner in the crime and the relationship between the parties, would remain a subject matter of debate before the trial court and the petitioner, who is in custody for the last more than 13 months, would be entitled to be released on bail as material prosecution witness has been examined and trial is likely to take time to conclude.

Without adverting to the merits or de-merits of the arguments addressed, 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.

16.12.2022
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(SUVIR SEHGAL)
JUDGE

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