

**CRM No.19800 of 2022 in/and
CRM-M-19689 of 2022**

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

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**CRM No.19800 of 2022 in/and
CRM-M-19689 of 2022
Date of decision:01.06.2022**

Deepak

... Petitioner

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Ms. Sharmila Sharma, Advocate
for the applicant-petitioner.

Ms. Mahima Yashpal, DAG, Haryana.

SUVIR SEHGAL, J. (Oral)

CRM No.19800 of 2022

Noticing the prayer made in the application, it is allowed.

Date of hearing of the main case is advanced from 26.08.2022

to today and it is ordered to be taken up on Board.

CRM-M-19689 of 2022

Instant petition has been filed under Section 439 Cr.P.C., seeking grant of regular bail to the petitioner in case FIR No.408 dated 08.07.2021 registered under Sections 376(2)(n), 452, 506 of Indian Penal Code, 1860 and Section 3 of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, however, Section 452 IPC was deleted and Section 450 IPC was added later on, at Police Station City, Sonipat (Annexure P-1).

Version of the prosecution is that FIR (Annexure P-1) has been registered on the statement of 24 years old married lady (hereinafter referred to as “the prosecutrix”) on the allegation that she had a love marriage with Kuldeep and Deepak, (present petitioner), who is a son of her brother-in-law. He had a bad eye on her. On 21.06.2021, when her husband was away, Deepak came to her house and sexually assaulted her. He threatened that in case she discloses the incident to anyone, he will kill her children. On 03.07.2021, petitioner again sexually assaulted her and out of fear, she left for her parental home the next day. On 06.07.2021, the petitioner called her on her mobile which she did not attend. In the evening at about 8.00 p.m., when she was out in the street, the petitioner came there and threatened her using objectionable language.

Counsel for the petitioner urges that false allegations have been levelled against the petitioner, who is closely related to the prosecutrix's husband as there is a marital discord between the prosecutrix and her husband. Counsel submits that despite the fact that prosecutrix had initially supported the allegations both in her statement recorded under Section 164 Cr.P.C., as well as in her testimony, Annexure P-3, when she was recalled for cross-examination, she stated that previous statement was under pressure. Counsel contends that allegation of uttering objectionable words has not been corroborated. He asserts that the petitioner, who is a young man of 21 years of age, with an unblemished past and is in custody since 09.07.2021, is no longer required for custodial interrogation. Counsel submits that the trial is progressing at a slow pace and most crucial

prosecution witness has been examined.

Opposing the petition, State counsel upon instructions from SI Ranbir, has made a reference to the statement of the prosecutrix recorded under Section 164 Cr.P.C., as well as narration of the incidents given by her to the doctor as has been reproduced in the MLR. She, however, could not deny the fact that the prosecutrix has turned hostile.

Having considered the submissions made by counsel for the parties, this Court is *prima facie* of the view that complicity of the petitioner in the offence would remain subject matter of debate before the Trial Court and the petitioner, who is in custody for the last more than 10 months would be entitled to be released on bail as 14 prosecution witnesses are yet to be examined.

Without delving into the merits or demerits of the arguments addressed by counsel for the parties, petition is allowed and the petitioner is ordered to be released 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.

June 01, 2022
savita

(SUVIR SEHGAL)
JUDGE

Whether Speaking/Reasoned	Yes
Whether Reportable	Yes