

**222 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-19101-2022

Date of decision : 12.05.2022

Randhava @ Naresh

.....Petitioner

versus

State of Haryana

..... Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Mukesh Yadav, Advocate
for the petitioner.

Mr. Neeraj Poswal, AAG, Haryana.

RAJESH BHARDWAJ, J. (Oral)

Prayer in the present petition is for grant of regular bail to the petitioner in case FIR No.106 dated 16.03.2021, under Sections 323, 376, 427, 506, 120-B of IPC and Section 67 of IT Act, registered at Police Station Kanina, District Mahendergarh.

Adumbrated facts of the case are that the present FIR was lodged by the prosecutrix (name concealed). On the date of occurrence at about 01:00 P.M., she went to Kanina to bring the household goods from her home Buchawas to Kanina. At bus stand, she met Naresh son of Papau who was her neighbour. He asked her to sit in his pick-up Van. Being familiar, she sat on that vehicle. Thereafter, Naresh took her to some shop of Juice and offered her Juice. After taking the same, she felt dizziness. He took her to a room and there she was forcibly raped by Naresh. Two more boys were standing near the gate, out of which, she recognized one Ranbir son of Pappu Singh who made her video. Besides this, brother-in-law of Ranbir namely Kalu was also standing with him and he said that he had made her video and if the same is disclosed to the police, they would kill her. Ranbir and his brother-in-law beat the prosecutrix. Ranbir also broke

her mobile phone. The complaint was lodged to take legal action against the culprits. On commencement of investigation, statement of the prosecutrix under Section 164 Cr.P.C. was also recorded and medical etc. were carried out and petitioner was arrested on 24th June, 2021. He approached the Court of learned Additional Sessions Judge, Narnaul praying for grant of bail. After hearing counsel for the parties, learned Additional Sessions Judge declined the same vide order dated 07th April, 2022. Aggrieved by the same, the petitioner has approached before this Court praying for grant of regular bail.

Learned counsel for the petitioner has submitted that the prosecutrix in this case is about 47 years of age whereas, the petitioner is 31 years of age. He submits that from the allegations made in the FIR, it is apparent that there is no possibility of committing rape with the prosecutrix forcibly. Counsel for the petitioner submits that the petitioner is physically disabled by eye and leg and he is not able to do such kind of offence. He submits that the petitioner has an impeccable record as he does not have any criminal antecedents. He vehemently contends that after presentation of the challan, learned trial Court has commenced with the recording of the evidence. The prosecutrix has been examined by the trial Court as PW-1. Copy of the statement has been placed on record. He submits that the prosecutrix has not supported the case of the prosecution and thus, on the request of Public Prosecutor, she was declared hostile. He submits that the prosecutrix, who is of the age of majority, has not supported the case of the prosecution. The prosecution has not left with any credible evidence for proving its case against the petitioner. He further submits that his bail application was declined by learned Additional Sessions

Judge primarily on the ground that granting bail to the petitioner would hamper the smooth proceedings. He further submits that the co-accused Ranbir @ Matru has already been granted bail by this Court vide order dated 10.05.2022 passed in CRM-M-29025-2021. However, as the prosecutrix also stands examined, the petitioner deserves to be granted bail.

Learned State counsel has opposed the submissions made by counsel for the petitioner. He submits that there are specific allegations against the petitioner. He submits that the petitioner is being prosecuted for the offence in the IT Act as well. However, he candidly acknowledges that the prosecutrix has been examined and she has not supported the case of the prosecution. He submits that out of 13 prosecution witnesses, 02 witnesses already stand examined including the prosecutrix.

I have heard learned counsel for the parties and perused the records.

Prosecutrix is of the age of majority. The occurrence has taken place while she was boarding a public vehicle. She has been examined by the trial Court wherein she has disowned her earlier statement. She has deposed before the trial Court that she had made no statement to the police and her signatures were obtained by the police on the blank papers. There is nothing on record to show that the petitioner has any criminal antecedents as there is no other case against the petitioner except the present case. Petitioner is behind bars since 24.06.2021. The prosecutrix already stands examined.

The trial of the case will take sufficient long time and no useful purpose will be served by keeping the petitioner in custody for

such a long time. In the facts and circumstances of the case, confining itself only to the consideration of the bail, this Court finds that counsel for the petitioner succeeds in making out a case for grant of regular bail. Accordingly, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail/surety bonds to the satisfaction of the concerned trial Court/Duty Magistrate. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

(RAJESH BHARDWAJ)
JUDGE

12.05.2022
m. sharma

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