

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Sr. No.217

CRM-M-24273-2022

Date of decision: 13.07.2022

Ankush @ Ankur

....Petitioner

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. Manoj Pundir, Advocate
for the petitioner.

Mr. Karan Sharma, DAG, Haryana.

* * *

DEEPAK SIBAL, J. (Oral)

The present petition has been filed under Section 439 Cr.P.C. for the grant of regular bail in FIR No.261 dated 25.06.2021 registered under Sections 323, 328, 376(2)(N) and 506 IPC at Police Station Gandhi Nagar, District Yamuna Nagar.

Briefly stated, the case of the prosecution is that the petitioner – a minor, was a friend of the prosecutrix's husband and in that capacity used to visit her matrimonial home. On one such visit, the petitioner came with a cold drink which he gave to the prosecutrix's husband after consumption of which he became unconscious. Thereafter, the prosecutrix also consumed the same cold drink and became sub unconscious. Early in the morning, she noticed that both the petitioner and the prosecutrix were lying together in a bed without clothes. When she tried to tell her husband about this incident, the petitioner gagged her mouth and threatened her to make viral an obscene video of hers which he had recorded. Thereafter, the petitioner continued to commit rape upon the prosecutrix. When the prosecutrix asked the petitioner not to come to her house he sent a video on her mobile phone and

threatened her to make it viral. The prosecutrix became pregnant and when she disclosed the entire story to her husband he confronted the petitioner. After such confrontation, the petitioner's mother filed a false complaint against the prosecutrix for extortion of money. The prosecutrix was medically examined and was also produced before the Magistrate where she got her statement recorded under Section 164 Cr.P.C.

Learned counsel for the petitioner submits that ex-facie the story of the prosecution is false; the petitioner – a minor was in a consensual relationship with the prosecutrix; when she became pregnant the beans with regard to their relationship were spilled before her husband leading to the lodging of the FIR in question; the prosecutrix had voluntarily entered into physical relation with the petitioner for the reason that her husband is impotent - a fact which she has admitted during the course of her examination before the Trial Court; the story of the prosecution that at the initial stage, the petitioner committed rape upon the prosecutrix after offering cold drinks to the prosecutrix's husband and herself is highly improbable as a result of the consumption of the same cold drink, the husband became unconscious but the prosecutrix became only sub unconscious; there is no medical evidence showing any injury on the prosecutrix further falsifying the prosecution's story; in her deposition before the Trial Court, the prosecutrix has admitted that for about 09 months she and the petitioner were regularly talking to each other on their mobile telephones; the petitioner is in custody since 07.07.2021; there is no other criminal case pending against the petitioner; the material witnesses including the prosecutrix has since been examined before the Trial Court and that since in the petitioner's trial 17 prosecution witnesses still remain to

be examined, the same will take a long time to conclude

Learned State counsel opposes the grant of bail to the petitioner on the ground that the petitioner has repeatedly raped a married lady as also threatened/blackmailed her.

After considering the afore submissions made on behalf of the petitioner, the present case is considered to be a fit one in which the petitioner be directed to be released on regular bail. Resultantly, subject to the satisfaction of the CJM/Duty Magistrate, Yamuna Nagar at Jagadhri, the petitioner is directed to be released on bail.

It is clarified that the above observations have been made only for the limited purpose of deciding the present regular bail application and the same would not be construed to be an expression of opinion on the merits of the case.

July 13, 2022
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(DEEPAK SIBAL)
JUDGE

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