

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(215)

CRM-M-23874-2022
Date of Decision: 06.09.2022

Ram Kumar

--Petitioner

Versus

State of Haryana

--Respondent

CORAM:- HON'BLE MR. JUSTICE RAJESH BHARDWAJ.

Present:- Mr. Deepak Singh Saini, Advocate for the petitioner.

Mr. Kirpal Singh, A.A.G., Haryana.

RAJESH BHARDWAJ.J (Oral)

The present petition has been filed under Section 439 Cr.P.C seeking the benefit of regular bail to the petitioner in case FIR No.18 dated 8.1.2021 under sections 376, 506 IPC and section 3 of SC/ST Act, registered at Police Station, City Yamuna Nagar, district Yamuna Nagar.

As per factual matrix, the FIR in question was lodged by the prosecutrix herself, wherein it was alleged that accused Ram Kumar was a friend of her husband. It was alleged that accused/petitioner Ram Kumar remained in a drug de-addiction centre. In absence of husband of the prosecutrix he tried to establish physical relationship with the prosecutrix. She kept ignoring the same, however, on 12.11.2020 when she had gone to the house of her paternal aunt in Yamuna Nagar, then accused Ram Kumar barged into the house of her paternal aunt and forcibly committed rape with her. Thereafter, he kept on blackmailing the prosecutrix and despite her best efforts he did not mend his ways. A request was made to take legal action against the culprit.

The investigation commenced. The prosecutrix was medically examined and her statement under section 164 Cr.P.C was recorded. Petitioner was arrested on 9.3.2021. He approached learned Addl. Sessions Judge, Yamuna Nagar at Jagadhari for grant of bail, however, after hearing the parties, the same was declined vide order dated 25.8.2021. Aggrieved by the same petitioner has approached this court for grant of bail.

Learned counsel for the petitioner vehemently contends that the petitioner has been falsely implicated in the present case. He submits that both prosecutrix and petitioner are of the age of majority. He submits that the alleged occurrence is of 12.11.2020, whereas the present FIR was lodged after about 2 months i.e. on 8.1.2021. Counsel submits that delay in lodging the FIR itself speaks of the due deliberations by the prosecutrix. He submits that prosecutrix is a habitual litigant and had lodged a frivolous complaint against his son on 23.9.2019 on similar allegations. However, thereafter she filed an affidavit deposing that the matter had been compromised. Counsel submits that all the material witnesses stand examined by the learned Trial Court and hence the possibility of the petitioner influencing them does not survive any more. He submits that petitioner has no criminal antecedents and he deserves to be granted the benefit of bail.

On the other hand, learned State counsel submits that there are specific allegations against the petitioner. He submits that the prosecutrix has duly supported the case of prosecution while being examined as prosecution witness before the learned Trial Court. He submits that out of the total 12 prosecution witnesses 9 have been examined. He further

submits that as per information provided to him petitioner is not involved in any other case.

I have heard learned counsel for the parties at length and have gone through the records carefully.

Admittedly, both petitioner and the prosecutrix are of the age of majority. Petitioner is behind bars since 9.3.2021. It has been contended by learned counsel for the petitioner that prosecutrix is a habitual litigant and she had lodged a frivolous complaint on similar allegations against his son also. The material witnesses including the prosecutrix already stand examined before the learned Trial Court and hence the possibility of the petitioner influencing them is no more. There is nothing on the record to show that petitioner has any criminal antecedents. The veracity of the allegations levelled against the petitioner would be assessed by the Trial Court only upon conclusion of the trial. This court would refrain itself from commenting on the merits of the case, as the allegations and counter allegations would be assessed only after evaluation of the complete evidence to be led by both the sides before the Trial Court. The trial would take sufficiently long time in its conclusion.

In the totality of facts and circumstances and without making any observation on merits, present petition is allowed. Petitioner be enlarged on bail on his furnishing bail/surety bonds subject to the satisfaction of Trial Court/Duty Magistrate, concerned. Nothing stated herein shall be treated as an expression on the merits of the case.

(RAJESH BHARDWAJ)
JUDGE

06.09.2022

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Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No