

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

CRM-M-20732-2019

Date of decision : 15.02.2022

Ashwani Kumar Sachdeva

.... Petitioner

Versus

State of Punjab

.... Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. G.B.S. Gill, Advocate
for the petitioner.

Ms. Sakshi Bakshi, AAG, Punjab.

Mr. Rituraj Singh, Advocate
for the complainant.

RAJESH BHARDWAJ, J. (ORAL)

Matter has been taken up through video conferencing via Webex facility in the light of the Pandemic Covid-19 situation and as per instructions.

Prayer in the present petition is for grant of regular bail to the petitioner in case FIR No.0220 dated 27.09.2018, under Sections 376, 506 of the Indian Penal Code, registered at Police Station Kotwali, City Faridkot.

As per factual matrix of the case, the present FIR was lodged by the prosecutrix (name concealed) wherein, it was alleged that she was working in a mobile company in Faridkot earlier and now living at her house only. In 2016, she used to serve in Samsung Company and there she met Ashwani Kumar Sachdeva i.e. the petitioner. The petitioner played all

the tactics to win her confidence, he took her phone number and gave his mobile number as well and thereafter, he started connecting with the prosecutrix on Facebook. He thereafter, assured the prosecutrix to provide her job and thus, tried to come closer to her. On the date of occurrence, he called her on phone to his house and asked the prosecutrix to bring all her testimonials so as to introduce her with the government officials regarding the job to be provided to her. The prosecutrix went to the house of the petitioner and found him alone. She was offered a glass of juice by the petitioner which made her intoxicated. The petitioner bolted the door and when prosecutrix resisted, she was slapped twice. Ultimately, she was raped by the petitioner forcibly and a video was also prepared. Thereafter, she picked up her certificates and walked out of the house and went to the police station with her father and brother. The present FIR was lodged with a request to take legal action against the culprits. The investigating agency swung into action and pursuant to that, petitioner was arrested on 4th April, 2019. He approached the learned Sessions Judge, Faridkot for grant of bail, who after hearing counsel for the parties, dismissed the same vide order dated 22nd April, 2019.

Learned counsel for the petitioner vehemently contends that the petitioner has been falsely implicated in this FIR. He submits that in the overall facts and circumstances, it is evident that the prosecutrix is 27 years of age and both i.e. prosecutrix and petitioner being of the age of the majority, the allegations levelled are totally false and frivolous. He has submitted that the petitioner who is 52 years of age, cannot be said to have established physical relationship forcibly with the prosecutrix who is 27

years of age without her consent. Learned counsel submits that the present FIR is nothing but a deliberated attempt by the prosecutrix for implicating the petitioner for the simple reason that in 2012, the daughter of the petitioner was forcibly kidnapped and raped and FIR No.181 dated 24.09.2012, under Sections 452, 307, 363, 366-A, 376, 325, 120-B IPC and other offence, registered at Police Station Kotwali Faridkot. He submits that one of the accused in the said FIR lodged by the petitioner is related to the prosecutrix in the present case and hence, petitioner has been implicated in this FIR. He further submits that even otherwise, petitioner is behind the bars from the last about three years. The majority of the prosecution witnesses already stand examined and hence, he deserves to be enlarged on bail.

Learned counsel for the complainant opposes the submissions made by learned counsel for the petitioner and submits that there are specific allegations against the petitioner and now almost half of the prosecution witnesses have already been examined. As the trial is at the fag end, the petitioner does not deserve the concession of bail.

Learned State counsel has submitted that the ocular version of the prosecutrix is duly corroborated medically. There are specific allegations by the prosecutrix against the petitioner and hence, the petitioner does not deserve the concession of bail.

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

There is no gainsaying that the petitioner and the prosecutrix both are of the age of majority. There are allegations of rape levelled by the

prosecutrix against the petitioner and it has been argued that the same is corroborated medically as well. However, as submitted by learned State counsel that out of 25 prosecution witnesses, 12 witnesses already stand examined. Learned State counsel has placed on record custody certificate of the petitioner which would show that he has undergone incarceration of 02 years, 10 months and 17 days as on 14.02.2022. Custody certificate further reveals that there is no other case pending against the petitioner. The material witnesses already stands examined. The allegations and counter-allegations would be evaluated by the trial Court only after appreciation of the evidence to be led by the parties. In the overall facts and circumstances of the case, it is apparent that the trial of the case will take sufficient time and no useful purpose will be served by keeping the petitioner in custody for such a long time. Keeping in view the abovesaid facts, this Court finds that learned counsel for the petitioner has succeeded 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.

15.02.2022
m. sharma

(RAJESH BHARDWAJ)
JUDGE

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