

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

CRM-M-24439-2022

Date of decision : 27.09.2022

Gulsher Quareshi

.....Petitioner

versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Ms. Kanika Ahuja, Advocate
for the petitioner.

Mr. Karunesh Kaushal, AAG, Punjab.

Mr. Jasraj Singh, Advocate
for the complainant.

RAJESH BHARDWAJ, J. (Oral)

Prayer in the present petition is for grant of regular bail to the petitioner in case FIR No.37 dated 09.04.2022, under Sections 354-B, 506 of IPC (Section 376 of IPC added later on vide DDR No.60 dated 12.04.2022), registered at Police Station Mukerian, District Hoshiarpur.

Adumbrated facts of the case are that the prosecutrix has lodged the FIR on the basis of the allegations that she was in relationship with Gulsher Quareshi (shopkeeper) i.e. the petitioner since 2018. In 2019, she went to the shop of the accused and he made an attempt to outrage her modesty. He took her to solitary place in his shop and thereafter, under the threat made some obscene videos of the prosecutrix. He compelled her to establish physical relations with her. However, she escaped from his grip. On the threat of the videos, thereafter, he started blackmailing her. On the basis of these allegations, the FIR was lodged to

take the legal action against the accused. The FIR was registered and the

investigation commenced. The prosecutrix was medically examined and the statement was recorded under Section 164 Cr.P.C. by Judicial Magistrate on 12th April, 2022. The petitioner was arrested on 9th April, 2022 and he approached the learned Additional Sessions Judge, Fast Track Special Court, Hoshiarpur praying for grant of bail. However, after hearing both the sides, learned Additional Sessions Judge, Fast Track Special Court, Hoshiarpur declined the same vide her order dated 06.05.2022. Aggrieved by the same, the petitioner is before this Court praying for grant of regular bail.

Learned counsel for the petitioner has vehemently contended that the petitioner has been implicated in this case in a clandestine manner. She has submitted that the petitioner as well as the prosecutrix both are of the age of majority. She submits that from the bare reading of the allegations in the FIR, the relationship between the petitioner and the prosecutrix is since 2018 whereas, the FIR has been lodged in 2022 i.e. after about four years. She submits that in the FIR, there are no allegations pertaining to offence under Section 376 of IPC. However, while the prosecutrix was produced for recording her statement under Section 164 Cr.P.C. She made material improvements and made the allegations regarding rape against the petitioner. She also submits that the prosecutrix was medically examined and the allegations pertaining to the rape were not substantiated from the FSL report received. To buttress her arguments, she has emphasized that now the prosecutrix has been examined by the prosecution as PW-1 and she has not supported the case of the prosecution. Resultantly, on request of learned Public Prosecutor, she has been declared hostile. She submits that the prosecutrix is of the

age of majority. She has been making material improvements in her statement and finally, she is examined by the trial Court. She has not supported the case of the prosecution thus, in the overall scenario, false implication of the petitioner is writ large. She also submits that the petitioner has no criminal antecedents and thus, he deserves to be granted bail.

Learned counsel for the complainant has candidly endorsed the submissions made by counsel for the petitioner.

Learned State counsel has submitted that the prosecutrix though of the age of majority, however, she had made specific allegations against the petitioner in her statement under Section 164 Cr.P.C. He has submitted that the prosecutrix was medically examined however, in the FSL report, no semen was detected. He candidly acknowledges that the prosecutrix has now been examined but she has not supported the case of the prosecution. He has further submitted that as per the instructions received from ASI Jasbir Singh, the petitioner is not involved in any other criminal case except the present one. He has submitted that out of 17 prosecution witnesses, 03 witnesses already stand examined including the prosecutrix.

I have heard counsel for the parties and perused the record. Evidently, the prosecutrix and the petitioner both are of the age of majority. The relationship between the prosecutrix and the petitioner is since 2018. She was medically examined, however, in the FSL report, it was reported that semen was not detected. The prosecutrix already stands examined and she has not supported the case of the prosecution. There is nothing on record to show that the petitioner has any criminal

antecedents.

The veracity of the allegations would be assessed only after conclusion of the trial. However, this Court would refrain itself from commenting anything on the merits of the case at this stage. The trial of the case will take sufficient long time. However, confining itself to the prayer made for 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.

27.09.2022
m. sharma

(RAJESH BHARDWAJ)
JUDGE

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