

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Sr. No. 223

CRM-M-25683-2022

Date of decision : 05.09.2022

Gurpiar Singh @ Mehanga

..... Petitioner

VERSUS

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Ms.Riffi Bala Birla, Advocate, for the petitioner.

Mr.M.S.Nagra, AAG, Punjab.

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.83 dated 16.09.2021 registered under Sections 376-D, 342 and 506 IPC at Police Station Sadar Abohar, District Fazilka.

Briefly stated, the case of the prosecution is that on 08.02.2021 the petitioner's mother-Murti Kaur administered certain intoxicants to the prosecutrix after which she felt unconscious and regained consciousness in Kaithal where the petitioner raped her for a period of 7-8 months as also gave her beatings.

Learned counsel for the petitioner submits that the petitioner is a 18 year old boy; he has no other criminal antecedents; he is in custody since 18.09.2021; the prosecutrix who is a married lady aged 34 years was madly in love with the petitioner and that they had an affair; the prosecutrix has embroiled the petitioner in this false case at the behest of her husband; during the course of their love affair they had both filed a joint complaint dated 02.03.2021 before the Punjab State Human Rights Commission, Chandigarh (for short, the Commission) seeking therein protection of their life and liberty which they felt threatened at the hands of the prosecutrix's husband and her father-in-law; on 08.03.2022 the Commission disposed of the aforesaid joint complaint with a direction to the State

to assess the threat perception in the matter and then provide adequate protection, if so required; the afore filing of the joint complaint clearly falsifies the case of the prosecution; investigation in this case is complete and therefore the petitioner is in no position to influence the same and that since the petitioner's trial has yet not begun, if at all begins, the same will take a long time to conclude.

Learned State counsel admits to the fact that the afore referred joint complaint was filed by the petitioner and the prosecutrix before the Commission and that the investigation in this case is complete. However, he seeks dismissal of the present petition on the ground that the petitioner is accused of having raped the prosecutrix, who is yet to be examined before the Trial Court.

On one hand, it is the case of the prosecution that on 08.02.2021 the prosecutrix was allegedly administered certain intoxicants by the petitioner's mother after which she lost her senses and regained them after a few hours at Kaithal where the petitioner allegedly raped her for 7-8 months. On the other hand, it is the admitted position that on 02.03.2021 the petitioner and the prosecutrix had jointly filed a complaint before the Commission through which they had *inter alia* sought protection of their life and liberty which they felt threatened at the hands of the prosecutrix's husband and her father-in-law and that such relief was sought because the petitioner and the prosecutrix intended to start their matrimonial life.

The afore conflicting stand makes the case of the prosecution debatable.

Irrespective of the above, the petitioner is a 18 year old boy; he has no other criminal antecedents; he is in custody since 18.09.2021 and that investigation in this case is also complete.

In view of the above, 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, Fazilka 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.

05.09.2022
shamsher

[DEEPAK SIBAL]
JUDGE

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