

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(204)

CRM-M-28843-2022
Date of Decision: 11.11.2022

Sangeeta

--Petitioner

Versus

State of Haryana

--Respondent

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

Present:- Mr. Ramender Chauhan, Advocate for the petitioner.

Mr. B.S. Virk, D.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.199 dated 25.4.2022 under sections 376, 34, 506 IPC, registered at Police Station, Sampla, District Rohtak.

As per factual matrix, the FIR in question was lodged by the prosecutrix, wherein it was alleged that on 7.4.2022 she received a telephonic call from Reena to come to her house. On receiving the same she went to Reena's house and when they were together, one person namely Raja Ram, who is a Tantrik came there. She was advised by Reena to take treatment from Raja Ram and she accepted the same. However, thereafter Reena caught hold her hands and Raja Ram made forcible physical relations with her. Thereafter she came to know that this Tantrik daily molest different women. A request was made to take legal action against the culprits.

The present FIR was lodged and investigation commenced. The prosecutrix was medically examined and her statement under section 164 Cr.P.C was recorded on 26.4.2022. The disclosure statement of the co-accused Raja Ram was recorded by the investigating agency on 27.4.2022 in which he named the present petitioner and also disclosed that petitioner was present in the home and she bolted the door. The petitioner was arrested on 28.4.2022. She approached the court of learned Addl. Sessions Judge, Rohtak for grant of bail, however, after hearing the parties, the same was declined vide order dated 19.5.2022. Aggrieved by the same petitioner has approached this court for grant of bail.

Learned counsel for the petitioner vehemently contends that petitioner is a rustic villager and she has been falsely implicated in the present case. He submits that from the reading of the allegations made in the FIR there is not even a whisper regarding presence of the petitioner. He submits that it is totally unbelievable that had the petitioner been present at the time of occurrence, there was no reason for the prosecutrix not to name her. Counsel submits that false implication of the petitioner is apparent from the very fact that the alleged occurrence had taken place on 7.4.2022, however, the FIR in question was lodged after an unexplained delay of about 18 days i.e. on 25.4.2022. He submits that investigation in the case is complete and charges have been already framed. Counsel submits that the disclosure made by co-accused Raja Ram is inadmissible. It is further submitted that petitioner has no criminal antecedents and she deserves to be granted bail.

On the other hand, learned State counsel submits that there are specific allegations against the petitioner. He submits that though the petitioner was not named in the FIR, however, during investigation her name has surfaced. He submits that the petitioner has been named by co-accused Raja Ram in his disclosure statement. She was also named in the statement of the prosecutrix recorded under section 164 Cr.P.C on 26.4.2022. He submits that investigation in the case is already complete, charges have been framed and the case is fixed for recording prosecution evidence. He also submits that in all there are three accused and all are behind bars.

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

Admittedly, petitioner is behind bars since 28.4.2022. The FIR was lodged by the prosecutrix herself, who is of the age of majority and a married woman, however, there was not even a whisper regarding the petitioner in the FIR. The occurrence relates back to 7.4.2022, whereas the FIR in question was lodged on 25.4.2022. Complicity of the petitioner was found in the statement of the prosecutrix which was recorded under section 164 Cr.P.C. Thereafter disclosure statement of the co-accused Raja Ram was also recorded on 27.4.2022 and he also named the petitioner. The investigation in the case is complete, charges have been framed and the case is fixed for recording evidence of prosecution witnesses. As per information provided by learned State counsel petitioner has no 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 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

11.11.2022

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