

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

**CRM-M No.28801 of 2022
Date of Decision : 13.07.2022**

Sanjeev Ojha

....Petitioner

Versus

State of Haryana

.....Respondent

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Abhinav Sood, Advocate
for the petitioner.

Ms. Shruti Jain Goyal, Dy. Advocate General, Haryana
for the respondent/State.

PANKAJ JAIN, J. (ORAL)

The instant petition has been filed under Section 439 of the Code of Criminal Procedure seeking regular bail on behalf of the petitioner, who is facing trial in case FIR No.67 dated 20th March, 2021, registered for offences punishable under Sections 376(2)(n), 506 of the Indian Penal Code, 1860 and Section 328 IPC added later on, at Police Station Women, NIT Faridabad, Tehsil and District Faridabad.

2. Ld. Counsel for the petitioner submits that the prosecutrix is a well educated and well placed married lady of 46 years of age. Even as per the allegations levelled in the FIR the relation between the petitioner and the prosecutrix was consensual one. He further submits that the Challan already stands presented and the prosecutrix stands examined. He asserts that even as per the allegations levelled in the FIR, the promise of marriage

was post occurrence and not prior to the same. Thus, the same would not constitute 'rape' as defined under Section 375 of the IPC.

3. Ld. State Counsel has emphatically opposed the prayer made by the petitioner stating that out of 13 cited witnesses only two witnesses have been examined and, thus, there is a possibility that the petitioner may tamper with the evidence. However, she does not dispute the factual position that the prosecutrix already stands examined.

4. In the circumstances, without commenting on the merits of the case and keeping in view the fact that the petitioner is in custody since 15th of February, 2022 i.e. almost 5 months, the present petition is allowed. The petitioner is ordered to be released on bail on his furnishing bail/surety bonds to the satisfaction of the Ld. Trial Court/Duty Magistrate concerned.

5. Nothing observed herein shall be construed to be an expression of an opinion on the merits of the case.

July 13, 2022

Dpr

(PANKAJ JAIN)

JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No