

241

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M No.28784 of 2022 (O&M)

Date of decision: 13.07.2022

Parveen Kumar

....Petitioner

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Ms. Ishita Jain, Advocate
for Mr. Namit Khurana, Advocate
for the petitioner.

Mr. Arun Beniwal, DAG, Haryana.

ARVIND SINGH SANGWAN J. (Oral)

Prayer in this 2nd petition is for grant of regular bail to the petitioner under Section 439 of the Code of Criminal Procedure (in short 'Cr.P.C.') in FIR No.345 dated 04.08.2020, for offence punishable under Sections 323, 452, 506, 376 of the Indian Penal Code, 1860 (in short 'IPC') and Section 3(1)(xii) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 registered at Police Station Farakpur, District Yamuna Nagar.

The earlier one was disposed of having been rendered infructuous.

Counsel for the petitioner has submitted that as per the allegations in the FIR, registered at the instance of one 'M' (name not disclosed), it is stated that she is aged about 32 years and married for the last 13 years, having 02 children and her husband has left the home about 01 year ago, without telling anyone and has not returned back.

Since May, 2020, the victim came in contact of the petitioner, who is a milk vendor and both of them used to talk with each other. The petitioner offered her to perform marriage, however, the victim did not agree to the same. On 15.06.2020 at night, Parveen entered the house of the victim and committed rape upon her and when she protested, he started beating her and by threatening her, left the place. It is further stated in the FIR that she is fed up with the habits of Parveen and action be taken against him. It is further submitted that the FIR was registered after a delay of about 45 days.

Counsel for the petitioner has referred to the MLR of the victim wherein the doctor, at the first instance, has noticed that it is a case of alleged history of assault at home on 15.06.2020 at about 10:30 PM and in the column of injury details, it is mentioned that no external injury is seen. With regard to the clothes, etc., it is mentioned that the clothes are already washed and changed. However, it is opined that the possibility of sexual assault, cannot be ruled out.

Counsel for the petitioner has further referred to the statement of the victim, who appeared as PW-2, to submit that even in the examination-in-chief, she has improvised the version by saying that the petitioner attacked her by using brick-bat and hit on her head and she became unconscious. This fact is not mentioned in the FIR and is not reflected in the MLR.

Counsel for the petitioner, with reference to the cross-examination of this witness further submits that she has been making improvements and giving different versions. It is further argued that the petitioner is in custody for the last 01 year and 05 months and since, the

victim has already been examined, there is no possibility of tampering with the prosecution evidence as only the official witnesses remain to be examined.

Counsel for the State on instructions from SI Sumesh Pal, submits that during the pendency of the present case, the petitioner escaped from the police custody and another FIR Nos.223 and 224 was registered against him and opposed the prayer for bail.

In reply, counsel for the petitioner has submitted that the petitioner, later on surrendered before the Court on 11.08.2021 and since then, he is in custody and facing the trial.

Without commenting anything on merits of the case, considering the fact that the petitioner is in custody for the last 01 year and 05 months; the petitioner already surrendered before the trial Court; the custodial interrogation of the petitioner is not required and the conclusion of the trial will take some time, this petition is allowed and the petitioner is directed to be released on bail subject to his furnishing bail/surety bonds to the satisfaction of the trial Court/Illaqa Magistrate/Duty Magistrate.

However, it will be open for the prosecution to apply for cancellation of bail of the petitioner, in case he is found involved in any other case or misusing the concession of bail, in any manner.

(ARVIND SINGH SANGWAN)
JUDGE

13.07.2022
yakub

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