

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

Sr. No.220

CRM-M-28961-2022

Date of decision: 13.09.2022

Kamal @ Kamal Kumar

....Petitioner

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. Vikas Bishnoi, Advocate
for the petitioner.

Ms. Sheenu Sura, DAG, Haryana.

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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.94 dated 31.12.2021 registered under Sections 3(2)(v) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 and Sections 376(2)(n) and 450 IPC at Police Station Women Fatehabad.

Briefly stated, the case of the prosecution is that the petitioner was known to the prosecutrix; on 07.12.2021 the petitioner met her at the Fatehabad bus stand and asked her to accompany him which she did; the petitioner then took the prosecutrix to a hotel got her to sign in the hotel's register; the prosecutrix and the petitioner then went up stairs in a room where she was made to sit; the petitioner then told the prosecutrix that if she did not make physical relations with him he would tell her husband about her coming to the hotel; under that threat, the prosecutrix made physical relations with the petitioner; out of fear, she did not disclose this event to anybody; after 4/5 days, the petitioner called the prosecutrix and told her

that he again wanted to make physical relations with her but she denied; after blackmailing the prosecutrix, on 28.12.2021, at about 9.00 p.m., the petitioner came in the house of the prosecutrix and again raped her; at that time, the prosecutrix's husband and children were sleeping in the next room and when the husband of the prosecutrix woke up a quarrel took place between him and the petitioner.

Learned counsel for the petitioner submits that the petitioner has been falsely implicated in this case; the petitioner has no other criminal case pending against him; the petitioner is in custody since 15.02.2022; the petitioner and the prosecutrix, who are both adults were in consensual relationship and in this regard attention of this Court is drawn to numerous telephone calls between the petitioner and the prosecutrix; the story of the prosecution that the petitioner forcibly took the prosecutrix on a motorcycle to a hotel and then raped her as also that the petitioner came to the prosecutrix's house and raped her while her husband and children were sleeping in the next room is ex-facie false; as per prosecution's MLR, no injury has been found on her person; all material witnesses in the petitioner's trial including the prosecutrix already stand examined and that since in the petitioner's trial 08 prosecution witnesses still remain to be examined, the same will take a long time to conclude.

Learned State counsel opposes the grant of bail to the petitioner on the ground that the petitioner has raped the prosecutrix.

Whether the relations between the petitioner and the prosecutrix, who are both adults, were consensual would be debated during the course of the petitioner's trial. Nonetheless, the petitioner is in custody since 15.02.2022; the petitioner has no other criminal case pending

against him; in the prosecutrix's MLR, no injury has been found on her person; all material witnesses in the petitioner's trial, including the prosecutrix, already stand examined and that since in the petitioner's trial 08 prosecution witnesses still remain to be examined, the same is likely to take a long time to conclude.

Keeping in view the totality of the above facts, 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, Fatehabad, 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.

September 13, 2022
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(DEEPAK SIBAL)
JUDGE

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