

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

Sr. No.285

CRM-M-29351-2022

Date of decision: 14.09.2022

Vipin Kumar

....Petitioner

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. J.S. Saini, Advocate,
for the petitioner.

Ms. Sheenu Sura, DAG, Haryana.

Mr. Davneet Sangwan, Advocate,
for the complainant.

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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.18 dated 02.04.2022 registered under Sections 376(2)(n) and 506 IPC at Women Police Station Kurukshetra, District Kurukshetra.

Briefly stated, the case of the prosecution is that the petitioner sent messages to the prosecutrix on her facebook account to which she initially did not respond; on the persistence of the petitioner the prosecutrix befriended him, thereafter, on his repeated requests the prosecutrix also met him; thereafter, on several occasions he took her to a hotel in Kurukshetra and made physical relations with her against her wishes; the afore sexual relations were made by the petitioner on the pretext that he would marry the prosecutrix but later the prosecutrix came to know that the petitioner was already married.

Learned counsel for the petitioner submits that the petitioner is a 23 year old boy whereas the complainant is aged 46 years; the petitioner has no other criminal antecedents; the petitioner is in custody since 12.04.2022; there is no medical evidence on record to back the allegations of rape; there is also no forensic evidence to support the prosecution's story; investigation in the case is complete and therefore, the petitioner is not in a position to influence the same; the petitioner and the prosecutrix being both adults were in a consensual relationship and therefore, there is no question of him having raped her; the prosecution's story, though vehemently denied, is ex-facie false as it is impossible to believe that on several occasions two married people would have sexual relations in a hotel without consent of each other at an earlier point of time; the matter between the petitioner and the prosecutrix had been compromised and that in view of the afore submissions further incarceration of the petitioner is wholly unnecessary.

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

The petitioner and the prosecutrix are both adults and therefore it will be debated during the course of the petitioner's trial as to whether the relationship between them was consensual. Nonetheless, the petitioner has no other criminal antecedents; he is in custody since 12.04.2022; there is no medical evidence on record to back the allegations of rape; there is also no forensic evidence to support the prosecution's story; investigation in the case is complete and therefore, the petitioner is not in a position to influence the same and that the petitioner's trial, when it begins, is likely to take 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, Kurukshetra 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 14, 2022
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(DEEPAK SIBAL)
JUDGE

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