

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

CRM-M-35323-2021
Date of Decision: 18.04.2022

SUDHIR KUMAR

...Petitioner

Versus

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present : Mr. Karan Singh, Advocate
for the petitioner.

Mr. B.S. Virk, D.A.G., Haryana.

RAJESH BHARDWAJ, J. (ORAL)

Prayer in the present petition is for grant of regular bail to the petitioner in case FIR No.50 dated 23.02.2021, registered under Sections 201, 342, 506, 376 of the Indian Penal Code, at Police Station Asauda, District Jhajjar.

The present FIR was lodged by the prosecutrix (name concealed). The sum and substance of the allegations in the FIR as alleged by the prosecutrix is that she solemnized marriage with Jasvir Singh and out of the wedlock, two children were born. Due to the altercation occurred between the husband and wife, the prosecutrix along with her children shifted to her parental home in Village Sandli. During that period, she came in contact with Sudhir Kumar i.e. the present petitioner through Facebook. The relationship between the prosecutrix and Sudhir Kumar kept on developing. On 17.12.2020, on the asking of the petitioner-Sudhir Kumar, she went with him to Bahadurgarh in Hotel Gajraj. The room was booked by

Sudhir Kumar and they stayed in the said hotel at Bahadurgarh for a night. The accused started making illicit relations with the prosecutrix against her wishes. Though, she resisted but he established physical relations with her. On the next day, the accused left the prosecutrix at the Railway Station at 10:00 a.m. She had a sum of Rs.10,000/- in her purse which was forcibly snatched by accused-Sudhir Kumar. She somehow came back to her village and thereafter, the present FIR was lodged to take a legal action against the petitioner. On the commencement of the investigation, the petitioner was arrested on 04.03.2021. The petitioner approached the Court of learned Additional Sessions Judge, Jhajjar for grant of bail, who after hearing counsel for the parties, declined the same vide order dated 06.07.2021. Aggrieved by the same, petitioner approached this Court by way of filing the present petition.

Learned counsel for the petitioner vehemently submits that the petitioner has been falsely implicated in this case. He submits that the petitioner is unmarried, whereas, the prosecutrix is married and a mother of two children. As per bare reading of the allegations in the FIR, it is apparent that the petitioner and the prosecutrix, who is a resident of Mansa, had come from Mansa by train to Bahadurgarh and thereafter, she remained with the petitioner in Hotel Gajraj at Bahadurgarh for a night. Again, on the next day, as per allegations itself, she was left at the Railway Station by the petitioner from where, she alleged to have come back. He submits that both the petitioner and the prosecutrix are known to each other. The prosecutrix is about 10 years elder than the petitioner. He submits that by no stretch of

imagination, the coercion on the part of the petitioner could be inferred in the facts and circumstances of this case. Learned counsel submits that the prosecutrix had been travelling by public transport and was staying with petitioner throughout at the public places but she had never shown any resistance from her side. He submits that in the facts and circumstances of the case, the allegations do not attract the offence under Section 376 IPC. He has relied upon **Pramod Suryabhan Pawar vs The State of Maharashtra and others** (2019) 9 SCC 608 and submits that in view of the law settled therein, no offence under Section 376 IPC is made out on the ground that the consent of the prosecutrix was obtained by the petitioner by means of coercion or “misconception of fact”.

Learned State counsel submits that the prosecutrix has already been examined in this case, who has supported the case of the prosecution. He further submits that out of 25 prosecution witnesses, 01 witness has been examined.

I have heard counsel for the parties and perused the records.

The prosecutrix is married lady and a mother of two children. She had been travelling by public transport and was staying with petitioner throughout at the public places but she never raised her voice against the petitioner. The Court refrains itself from going into the veracity of the allegations as the same is to be appreciated by the trial Court on conclusion of evidence. The prosecutrix has already been examined and there are no chances of influencing the prosecutrix. Petitioner is behind the bars since 04.03.2021.

Without commenting anything on the merits of the case at this

stage, when out of 25 prosecution witnesses, 01 witness already stand examined and hence, the trial would take sufficient time for its conclusion and no purpose will be served by keeping the accused in custody for such a long time, this Court finds that learned counsel for the petitioner has succeeded in making out a case for grant of regular bail. Accordingly, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail/surety bonds to the satisfaction of the concerned trial Court/Duty Magistrate. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

18.04.2022

gurpreet

**(RAJESH BHARDWAJ)
JUDGE**

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No