

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

(Sr. No. 218)

CRM-M No.32786 of 2022

Date of decision : 07.09.2022

Jobanpreet

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM : HON'BLE MR. JUSTICE DEEPAK SIBAL

Present : Ms. Renu Arora, Advocate for the petitioner.

Mr. M. S. Nagra, AAG, Punjab.

Mr. Atul Jain, 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.64 dated 10.04.2022 registered under Sections 376-C and 120-B IPC (later on Section 376-C deleted and Section 376 IPC added vide DDR No.20 dated 29.04.2022 and further added Sections 354-D, 384 and 366 IPC vide DDR No.11 dated 09.06.2022) at Police Station Sultanpur Lodhi, district Kapurthala.

Briefly stated, the case of the prosecution is that the prosecutrix befriended the petitioner on Instagram; she then came to know that the petitioner was already married; on such revelation she stopped talking to him; thereafter the petitioner's wife invited the prosecutrix to her home which invitation was accepted by her; when the prosecutrix was at the petitioner's house the petitioner's mother-in-law and wife administered an intoxicant to the prosecutrix; in a state of inebriation they facilitated rape upon her by the petitioner; during the course of such act the petitioner's

wife made a video and that later after blackmailing the prosecutrix the petitioner took her in his car to various places where he repeatedly raped her.

Learned counsel for the petitioner contends that the petitioner is 23 year old; he has no other criminal antecedents; the petitioner is in custody since 10.04.2022; the investigation qua the petitioner is complete and therefore the petitioner is in no position to influence the same; as per the medical evidence on record there is no definite opinion that the prosecutrix was subjected to any sexual assault; no obscene video of the prosecutrix has seen the light of the day; the allegations against the petitioner are vague as no details or even the date(s) on which the prosecutrix was allegedly raped by the petitioner are forthcoming; even otherwise the allegations in the FIR are *ex facie* false as it has been mentioned therein that the petitioner's mother-in-law and wife facilitated rape upon the prosecutrix by their son-in-law and husband, respectively; co-accused of the petitioner *i.e.* his mother-in-law and wife have been granted ad interim anticipatory bail by this Court; there is no forensic evidence to back the allegations of rape; during the course of her medical examination no injury has been found on the prosecutrix's person; messages exchanged between the prosecutrix and the petitioner's friend on 05.02.2022 clearly show that the prosecutrix is still wanting to deliver messages to the petitioner and that in the light of the afore submissions further incarceration of the petitioner is not necessary.

Learned State counsel as also learned counsel for the

complainant oppose the grant of bail to the petitioner on the ground that the petitioner has repeatedly raped the prosecutrix.

The petitioner who is 23 years old does not have any other criminal antecedents; he is in custody since 10.04.2022; investigation qua the petitioner is complete; as per the medical evidence on the record there is no definite opinion that the prosecutrix was subjected to any sexual assault; there is also no forensic evidence to back the allegations of rape; during the course of her medical examination no injury has been found on the prosecutrix's person; no obscene video of the prosecutrix has seen the light of the day; no details or even the date(s) on which the prosecutrix was allegedly raped by the petitioner are forthcoming in the case of the prosecution and the co-accused of the petitioner *i.e.* his mother-in-law and wife have been granted ad interim anticipatory bail by this Court.

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, Kapurthala, 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.

07.09.2022*sunil yadav***(DEEPAK SIBAL)
JUDGE**

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No