

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

(Sr. No. 282)

CRM-M No. 32291 of 2022

Date of decision : 22.08.2022

Rajwanti and others

.....Petitioners

Versus

State of Haryana

.....Respondent

CORAM : HON'BLE MR. JUSTICE DEEPAK SIBAL

Present : Mr. Rajesh Garg, Senior Advocate with
Ms. Neha Matharoo, Advocate for the petitioners.

Mr. Karan Sharma, DAG, Haryana.

Mr. R. P. Daaria, Advocate for the complainant.

* * *

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.158 dated 06.05.2022 registered under Sections 323, 376, 377, 498-A, 120-B, 506 and 34 IPC at Police Station HSIIDC, Barhi, district Sonapat.

The prosecutrix filed a complaint with the police as per which she was married to petitioner No.2; out of their wedlock no child was born for which she was taunted by her mother-in-law - petitioner No.1; petitioner No.1 made a suggestion to the prosecutrix to establish physical relations with someone else so that she could bear a child which suggestion she ignored; in the morning of 27.04.2022, when the prosecutrix was cleaning her room, petitioner No.1, along with her sister namely Santosh, made

petitioner No.3 enter the prosecutrix's room and bolted the same from outside and thereafter, petitioner No.3 raped the prosecutrix.

On the basis of the afore complaint the FIR in question was lodged against the petitioners.

Learned senior counsel appearing for the petitioners submits that the petitioners have been falsely implicated in this case as there were temperamental differences between the prosecutrix and petitioner No.2; the petitioners are not involved in any other criminal case; the petitioners have been in custody since 17.05.2022; investigation in the case is complete and therefore the petitioners are not in a position to influence the same; the petitioners had filed a petition under Section 482 Cr.P.C. being CRM-M No.26401 of 2022 – Rajwanti and others Vs. State of Haryana and another through which they had sought quashing of the FIR in question on the ground that the dispute between the petitioners and the prosecutrix had been settled; in the afore petition, on 14.06.2022, this Court had directed the parties to record their statements in support of their settlement before the concerned Judicial Magistrate; in pursuance to the order of this Court dated 14.06.2022 the prosecutrix had appeared and stated before the Judicial Magistrate First Class, Ganaur (for short – the Magistrate) that she wanted to reunite with her in-laws as also live with petitioner No.2 and therefore did not want to initiate any legal action against them; in the light of the afore statement of the prosecutrix it would be in the fitness of things to restore her matrimonial home rather than keep the petitioners in jail; there is no forensic evidence to support the prosecution's case; in the light of the afore statement made by the prosecutrix it is highly unlikely that the

petitioners either would tamper with the evidence or abscond and that in view of the afore submissions further incarceration of the petitioners is not warranted.

Learned counsel appearing for the prosecutrix does not dispute the fact that the prosecutrix has appeared before the Magistrate and stated that she does not want to pursue the FIR in question as also that she would like to reunite with her husband – petitioner No.2 and her in-laws.

Learned State counsel also does not dispute the above statement made by the prosecutrix before the Magistrate but opposes the grant of bail to the petitioners on the ground that petitioners No.1 and 2 had conspired to and petitioner No.3 had actually raped the prosecutrix.

The prosecutrix alleges that her mother-in-law (petitioner No.1) and her husband (petitioner No.2) conspired to get her raped by petitioner No.3 - a cousin of petitioner No.2. However, it is not disputed that the prosecutrix recently appeared before a Magistrate and stated that she wants to bury the hatchet; reunite with her in-laws, especially her husband and that such statement of hers has been recorded in compliance with the order passed by this Court in a petition filed by the petitioners under Section 482 C.P.C. seeking therein quashing of the FIR in question on the basis that the prosecutrix has chosen not to pursue the FIR in question.

In the light of the afore development which is peculiar to this case and because the investigation in the case is already complete; the petitioners have no other criminal antecedents and that as on date, there is no forensic evidence against the petitioners, this Court is of the opinion that the petitioners be enlarged on bail and it is so ordered. Resultantly, subject

to the satisfaction of the CJM/Duty Magistrate, Sonipat the petitioners are 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.

22.08.2022

sunil yadav

**(DEEPAK SIBAL)
JUDGE**

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No