

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(214)

CRM-M-38114-2021

Date of Decision: 22.04.2022

Vijay

--Petitioner

Versus

State of Haryana

--Respondent

CORAM:- HON'BLE MR. JUSTICE RAJESH BHARDWAJ.

Present:- Mr. P.S. Jammu, Advocate for the petitioner.

Mr. Neeraj Poswal, A.A.G., Haryana.

RAJESH BHARDWAJ.J (Oral)

The present petition has been filed under Section 439 Cr.P.C for grant of regular bail to the petitioner in FIR No.187 dated 30.5.2021 registered under Sections 323, 354-B, 376, 376-D, 450, 506 IPC at Police Station, Rania, District Sirsa.

As per facts of the case, present FIR was lodged by the prosecutrix (name concealed). The sum and substance of the allegations in the FIR is that the marriage of the prosecutrix took place five months before the occurrence. On 28.5.2021 at about 1.30 PM when she was alone in the house, two boys namely Vijay and Sunil, who were living in her neighborhood entered her house and gave her a brick blow. Sunil sat down on her chest and tore her shirt. Vijay opened her salwar and put his fingers in her private part. On raising alarm daughter of her sister-in-law came there and on seeing her both the boys ran away. They kept mum for the sake of honor of the family, however, thereafter the present FIR was lodged to take legal action against the culprits.

The investigation commenced and the statements of the prosecutrix were recorded. Petitioner was arrested on 4.6.2021. He approached learned Addl. Sessions Judge, Sirsa for grant of bail, however,

after hearing the parties, the same was declined vide order dated 6.8.2021. Aggrieved by the same petitioner has approached this court for grant of bail.

Learned counsel for the petitioner has vehemently contended that the petitioner has been falsely and frivolously implicated in the present case. It is submitted that petitioner is a young unmarried boy. Counsel submits that the allegations on the face of it are false and fabricated. It is submitted that it is unbelievable that in the day light the petitioner entered the house of the prosecutrix and hit her with a brick and thereafter committed the offence as alleged. Counsel submits that petitioner has an impeccable record and he has never been involved in an offence of the similar nature. He submits that it is the prosecutrix who is a habitual litigant and has got registered false FIRs against the innocent persons. Counsel has drawn attention of this Court to the order passed by learned Addl. Sessions Judge, Sirsa wherein there is a mention of another case got registered by the prosecutrix vide FIR No.223 dated 24.6.2021 under Sections 354-B, 376-D, 506, 323 IPC at Police Station, Rania i.e. after 24 days of the present FIR. Counsel submits that after completion of investigation the challan has already been submitted and charges have been framed and now the case is fixed for recording prosecution evidence. Counsel submits that prosecutrix is avoiding her examination before the Trial Court in order to prolong the incarceration of the petitioner. It is submitted that the date fixed before the learned Trial Court was 28.3.2021. Though the prosecutrix came to the court, however, she refused to depose before the court on the excuse of her ill health and the case was adjourned to 1.7.2022. Counsel submits that as the investigation is already complete and the case is in the court so there cannot be any apprehension of tampering with the evidence and hence the

petitioner deserves to be granted bail.

On the other hand learned State counsel has strongly opposed the submissions made by counsel for petitioner and submits that there are specific allegations against the petitioner. He, however, candidly acknowledges that there are other FIRs lodged by the prosecutrix of the similar nature and that the case is now fixed for recording evidence of the prosecutrix on 1.7.2022.

I have heard learned counsel for the parties at length and have gone through the record carefully.

The petitioner is a young unmarried boy, who is at the threshold of his life. He is behind bars since 4.6.2021. The prosecutrix is a married lady. There is nothing on record to show that petitioner had been involved in offences of similar nature. As evident from the order passed by the court below the prosecutrix has also lodged another FIRs of the similar nature against some others persons. The veracity of the allegations levelled in the FIR would be assessed only after conclusion of the trial. In the overall facts and circumstances of the case, this Court finds that counsel for petitioner succeeds in making out a case for grant of bail to the petitioner.

In the totality of facts and circumstances and without making any observation on merits, present petition is allowed. Petitioner be enlarged on bail on his furnishing bail/surety bonds subject to satisfaction of Trial Court/Duty Magistrate, concerned. Nothing stated herein shall be treated as an expression on the merits of the case.

(RAJESH BHARDWAJ)
JUDGE

22.04.2022

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Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No