

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(223)

CRM-M-34558-2022 (O&M)

Date of decision:- 10.08.2022

Chellu Ram

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Salil Dev Singh Bali, Advocate
for the applicant-petitioner.

Ms. Deepshikha Chauhan, AAG, Haryana
for State-respondent.

SUVIR SEHGAL, J. (ORAL)

CRM-27918-2022

Application is allowed as prayed for.

Leave is granted.

Main case

This is the third petition filed under Section 439 of the Code of Criminal Procedure, 1973 (for short “the Code”) seeking grant of post-arrest bail in case FIR No.0145 dated 14.08.2020, registered for offences under Sections 346, 343, 376-D, 506 and 34 of the Indian Penal Code, 1860 (for short “IPC”), at Police Station Jatusana, District Rewari, Annexure P-1.

Case of the prosecution is that FIR, Annexure P-1, has been registered on the statement of Gindo Devi that her daughter-in-law (for short “the prosecutrix”) is missing from her matrimonial home since 10.08.2020.

By referring to Annexure P-2, counsel for the petitioner submits that when the prosecutrix appeared before the authorities on 20.08.2020, she stated that two persons had committed “wrong act with her” and on her raising an alarm, they threatened to eliminate her. Counsel submits that in her testimony, Annexure P-12, the prosecutrix has point blank refused to identify the petitioner. Counsel submits that the first petition seeking grant of regular bail filed by the petitioner was withdrawn in December, 2020 and the second petition was withdrawn in July, 2022 with liberty to file a fresh petition before the Trial Court. Counsel submits that the prosecutrix has since been examined and as she did not recognise the accused, there is a change in circumstance enabling him to file a fresh petition. Counsel asserts that the petitioner, who has a clean past and is in custody since 21.08.2020, deserves to be enlarged on bail.

Per contra, learned State counsel, upon instructions from ASI, Ram Niwas, has opposed the petition and has filed Custody Certificate dated 09.08.2022, which is taken on record. She submits that the prosecutrix was recovered from the house of the accused-petitioner and in her statement recorded under Section 164 of the Code, she has supported the allegations. Still further, it is her argument that even in her testimony, she has stood by her version and supported the case of the prosecution, but did not identify the petitioner.

Having heard counsel for the parties, this Court is prima facie of the view that the complicity of the petitioner in the offence would remain a subject matter of debate before the Trial Court. Petitioner, who is in custody for the last more than one year and eleven months, would be entitled to be released on bail as the material prosecution witnesses have been examined and the trial, which is at an initial stage, is likely to take time to conclude.

Without advertng to the merits or demerits of the arguments addressed by counsel for the parties, petition is allowed. Petitioner is ordered to be released on bail during the pendency of trial, on furnishing adequate bail/surety bonds to the satisfaction of the Area Magistrate/Duty Magistrate concerned.

It is clarified that nothing said hereinabove shall be construed to be an expression of opinion on the merits of the case.

(SUVIR SEHGAL)
JUDGE

10.08.2022
Kamal

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No