

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

CRM-M-34614-2022

Date of decision : 10.08.2022

Ishab

.... Petitioner

Versus

State of Haryana

.... Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Vinay Kumar Pandey, Advocate
for the petitioner.

Mr. Kirpal Singh, AAG, Haryana.

RAJESH BHARDWAJ, J. (ORAL)

Prayer in the present petition is for grant of regular bail to the petitioner in case FIR No.0075 dated 21.05.2021, registered under Sections 376 and 506 of the Indian Penal Code, at Police Station Bicchor, District Nuh.

The present FIR was lodged by the victim (name concealed). The sum and substance of the FIR as alleged by the prosecutrix is that on 30.04.2021 at around 11.30 PM in the night she had gone to see her buffaloes who were tied near by the old Haweli. The petitioner-Ishab was already present there at that moment and caught hold of her hand and dragged her inside at pistol point and committed rape upon her against her wishes. Thereafter, the family members came and petitioner escaped from there. She alleged that efforts were going on for negotiations between the parties, however, the petitioner refused to accept his mistake and thereafter, threatened her and her family members to be killed. Having no other

alternative, she approached the police and lodged the present FIR and made a request for taking the legal action against the petitioner who had emotionally and sexually exploited her. Thereafter, investigating agency swung into action and the petitioner was arrested on 03.12.2021. He approached the learned Additional Sessions Judge (Fast Track Court), Nuh for grant of bail, who after hearing counsel for the parties, declined the same vide order dated 27.07.2022. Aggrieved by the same, petitioner approached this Court by way of filing the present petition.

Learned counsel for the petitioner vehemently submits that petitioner has been falsely implicated in this case. The FIR in question was lodged on 21.05.2021 after the delay of 21 days of occurrence. He submits that it also is evident from the facts of the case that petitioner and the prosecutrix both are of the age of majority. After registration of the FIR, the statement of the prosecutrix was recorded under Section 164 Cr. P. C. and she was medically examined. The petitioner was arrested on 03.12.2021. As per bare reading of the allegations in the FIR, it is clear that the false implication of the petitioner is on the basis of concocted story made by the prosecutrix which is totally improper. He submits that false implication of the petitioner is strengthened from the very fact that the prosecutrix and her husband have been examined as PW 3 and PW 4, respectively, and they have not supported the case of the prosecution. As a result, victim and her husband were declared hostile. Learned counsel submits that petitioner is languishing in jail since 03.12.2021 and in the facts and circumstances, his further custody is totally unwarranted.

Learned State counsel, on instructions from SI Bachhu, submits

that there are specific allegations against the petitioner who has exploited the prosecutrix emotionally and sexually. However, he candidly acknowledged that the victim is of the age of majority and she has not supported the case of the prosecution. He further submits that out of 19 prosecution witnesses, 03 witnesses have been examined.

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

Petitioner is behind the bars since 03.12.2021. Both the petitioner and the prosecutrix are of the age of majority. The prosecutrix and her husband were examined by the trial Court and from their deposition before the trial Court, it is evident that they have disowned all her previous allegations made in the FIR and thus, have been declared hostile. Without commenting anything on the merits of the case at this stage, when out of 19 prosecution witnesses, 03 witnesses already stand examined and when, the trial is likely to take sufficient long time for its conclusion, 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.

(**RAJESH BHARDWAJ**)
JUDGE

10.08.2022
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Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No