

IN THE HIGH COURT OF PUNJAB & HARYANA AT  
CHANDIGARH

(298)

CRM-M-35828-2022  
Date of decision:- 21.09.2022

**Azad Kumar**

**... Petitioner**

**Versus**

**State of Haryana**

**... Respondent**

**CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL**

Present:- Mr. Aditya Sanghi, Advocate  
for the petitioner.

Ms. Ankita Ahuja, AAG, Haryana  
for State-respondent.

Mr. Lokesh Sharma, Advocate  
for the complainant.

...

**SUVIR SEHGAL, J. (ORAL)**

Instant petition has been 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.40 dated 03.02.2022, registered for offences under Sections 376(2)(n), 313, 384, 450, 506 and 376-C of the Indian Penal Code, 1860, Section 3(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and Section 66(E) of Information Technology Act, 2000, at Police Station City Ratia, District Fatehabad, Haryana, Annexure P-1.

Criminal law has been set in motion on the basis of a complaint by a 30 year old lady (for short “the prosecutrix”) on the allegation that in

2017, Azad Kumar, present petitioner, who was working as a D.J. and operating under in the name and style of Azad D.J. engaged her as a dancer and used to take her along wherever the group performed. Azad won her confidence and told her that he wanted to get married to her and developed physical relations with her despite her objections. He impregnated her twice and forced her to take tablets for aborting the fetus as he told her that her pregnancy will come in the way of her performance. It has been mentioned that she came to know that Azad Kumar wanted to marry some other girl and his engagement with her had been finalized. When she confronted him, he told her that he possessed intimate photographs of the complainant, which he will misuse and threatened her. She has alleged that as she belongs to a scheduled caste, he is not solemnizing marriage with her.

Counsel for the petitioner has made a reference to the statement of the prosecutrix recorded under Section 164 of the Code on 04.02.2022, Annexure P-6, to submit that while reiterating the allegations, the prosecutrix has stated that she was having an affair with the petitioner and they were in a physical relationship. Counsel submits that the prosecutrix has been examined on 19.07.2022 as PW-3 and in her testimony, she has categorically stated that petitioner did not humiliate her and has neither taken advantage of her caste nor sexually assaulted her. He submits that the prosecutrix has further deposed that the petitioner did not coerce her to abort her pregnancy or threatened her. Counsel asserts that the petitioner, who is in custody since 14.04.2022 and has a clean past, deserves to be released on bail as the star prosecution witness has been examined.

Opposing the petition, learned State counsel upon instructions

received from L/SI, Shakuntala Devi, has submitted that there are serious and grave allegations against the petitioner, who has been specifically named by the prosecutrix in the FIR as well as in her statement recorded under Section 164 of the Code. Still further, she submits that in the history of the incident given to the examining doctor, the prosecutrix has named the petitioner for sexually exploiting her. As per her instructions, twenty out of twenty eight prosecution witnesses have been examined.

Having heard counsel for the parties, this Court is prima facie of the view that the complicity of the petitioner in the crime would remain a subject matter of debate before the Trial Court. Considering the fact that the petitioner is in custody for the last more than five months, material prosecution witness has been examined and there is no possibility of petitioner pressurizing her and the trial is likely to take time to conclude, this Court is of the opinion that the petitioner deserves to be enlarged on bail.

Without adverting to the merits or de-merits of the arguments addressed by the counsel for the parties, petition is allowed. The petitioner is ordered to be released on bail on his 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**

21.09.2022

*Kamal*

|                           |        |
|---------------------------|--------|
| Whether Speaking/Reasoned | Yes/No |
| Whether Reportable        | Yes/No |