

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(111+235)

CRM-M-35870-2022 (O&M)

Date of decision:- 17.10.2022

Wajim

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Farukh Abdullah, Advocate
for the applicant-petitioner.

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

SUVIR SEHGAL, J. (ORAL)

CRM-33600-2022

Application is allowed as prayed for.

Testimony of the complainant, who has been examined as PW-4,
is taken on record as Annexure P-8.

Main case

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.05 dated 19.02.2021, registered for offences under Sections 365, 376, 506, 201 and 384 of the Indian Penal Code, 1860 and Sections 66-E and 67 of the Information Technology Act, 2000, at Police Station Women, Nuh, Annexure P-1.

Version of the prosecution is that FIR, Annexure P-1, has been registered by father of a married lady (hereinafter referred to as “the prosecutrix”) on the allegation that about one month ago, Wajim, present petitioner, had kidnapped his daughter, raped her and made an obscene video. He threatened to make the video public and eliminate her. Due to his threat, she did not disclose the incident to her husband or to the complainant. When he saw the viral video of his daughter, he made enquiries and lodged the present FIR.

Counsel for the petitioner has argued that all the star prosecution witnesses have been examined. By making a reference to the deposition of the prosecutrix, PW-1, which has been appended as Annexure P-5, counsel urges that although she has confirmed the incident, but she has not identified the petitioner. Reference has also been made by him to the testimony of the parents-in-law of the prosecutrix, Annexures P-6 and P-7, respectively. Counsel submits that the petitioner, who is in custody since 03.03.2022, deserves to be enlarged on bail as there is no possibility of his threatening the crucial witnesses.

Per contra, learned State counsel, upon instructions from SHO/Inspector, Rajbala, has opposed the petition and has argued that there are categorical allegations against the petitioner, who has been named in the FIR as well as in the statement recorded by the prosecutrix under Section 164 of the Code. She submits that the prosecutrix has stood by her version, even in the narration given by her before the examining doctor, though the petitioner has not been named therein. While making a reference to the

testimony of the complainant, Annexure P-8, counsel submits that he has deposed in tune with the allegations levelled in the FIR. Upon further instructions, she has stated that all the crucial witnesses have been examined.

Having considered the submissions made by counsel for the parties, but without advertng to the merits or demerits of the arguments addressed, this Court is prima facie of the view that although there are serious allegations against the petitioner, but his complicity in the crime would remain controvertible before the Trial Court. Petitioner, who is in custody for the last more than seven months, would be entitled to be released on bail as the material witnesses have been examined and the trial is likely to take time to conclude.

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

17.10.2022
Kamal

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