

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

215

CRM-M-40261 of 2021 (O&M)
Date of decision:31.03.2022

Vikas

... Petitioner

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Anil Kumar, Advocate and
Mr. Narinder Pal Bhardwaj, Advocate
for the petitioner.

Mr. Anmol Malik, DAG, Haryana.

SUVIR SEHGAL J.

CRM No.1173 of 2022

For the reasons given in the application, it is allowed.

Testimony of PW-9, husband of the prosecutrix, is taken on
record as Annexure P-12.

CRM No.1174 of 2022

As the main case is being taken up for hearing, application
seeking preponement of the petition is rendered infructuous and is
dismissed as such.

CRM-M-40261 of 2021

Vide the instant petition filed under Section 439 of the Code of
Criminal Procedure, 1973 (for short “the Code”), the petitioner seeks grant
of regular bail in a pending trial in case FIR No.356 dated 02.12.2020
registered for offences under Section 376(2)(n), 328, 384, 506 of Indian
Penal Code, 1860 at Police Station Industrial Sector 29, Panipat

(Annexure P-1).

As per the case of the prosecution, FIR (Annexure P-1) has been registered on the complaint of a married lady (hereinafter referred to as “the prosecutrix”) on the allegation that almost one year back, when she had a problem of severe headache, she visited Vikas, (present petitioner), who was known for witchcraft and prescribes ayurvedic medicines. He called her home many times and on the pretext of curing her, he gave her medicine in a glass of water and told her that she will soon feel relaxed. After drinking it, the prosecutrix fell unconscious and after 2-3 hours, when she regained consciousness, she saw that she was half naked and Vikas, who was also semi-clothed, was sitting besides her. She realized that she had been raped and when she confronted Vikas and told him that she will file a complaint against him, Vikas dared her from disclosing the incident and threatened that he had made a video of the incident, which he will viral in case she takes any such step. In order to save her and her family's reputation, she did not disclose the incident to anyone. Vikas took advantage of her helplessness and started blackmailing her by repeatedly raping her and extracting money from her. Due to his demands and physical abuse, the prosecutrix was disturbed and even thought of committing suicide. On 18.10.2020, under the threat of video recording, he again raped her. The next day, she went to her paternal home at Hisar, where she stayed for one month. When she was back, Vikas started visiting her again and threatened her. Driven against the wall, she submitted a complaint to the police authorities.

Counsel for the petitioner submits that allegations levelled against the petitioner are false. The petitioner and the prosecutrix were

having an affair since 2019 and were regularly in touch on phone. He has placed reliance upon the photographs (Annexure P-6) and mobile recordings to submit that their relationship was consensual. It is his argument that when the family members of the prosecutrix came to know of their relationship, she lodged a complaint with the authorities, which is a brain child of her lawyer.

Per contra, State counsel, upon instructions from HC Vikas has opposed the prayer and submitted that the petitioner, who is accused of having taken an advantage of an innocent lady, has committed a heinous offence. It has been argued by the State counsel that the allegations levelled in the FIR are very specific and have been duly supported by the prosecutrix throughout.

I have heard counsel for the parties and given a thoughtful consideration to their submissions.

Not only the petitioner has been specifically named in the FIR (Annexure P-1), but also there are categoric allegations against him of sexually exploiting the prosecutrix, who has been consistent in her statement under Section 164 of the Code as well as in her deposition before the Court. Her testimony has been duly supported by that of her husband (Annexure P-12), who has also been examined as PW-9. The veracity of the photographs and other material relied upon by counsel for the petitioner is yet to be ascertained and does not call for any comment from this Court at this stage as the same would be subject matter of adjudication before the Trial Court.

Keeping in view the totality of the facts and circumstances, the nature of allegations, gravity of offence and the severity of punishment

likely to be imposed upon the petitioner in case he is found to be guilty, this Court is of the view that the petitioner is not entitled to the concession of bail during the pendency of the trial. The petition is sans merit and is hereby dismissed.

As an abundant caution, it is clarified that anything said hereinabove shall not be construed to be an expression of opinion on the merits of the case and the Trial Court shall conclude the trial uninfluenced by any observation made hereinabove.

(SUVIR SEHGAL)
JUDGE

March 31, 2022
savita

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