

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(219)

CRM-M-41645-2021

Date of Decision: 14.03.2022

Davinder Singh

--Petitioner

Versus

State of Punjab

--Respondent

CORAM:- HON'BLE MR. JUSTICE RAJESH BHARDWAJ.

Present:- Mr. Vipin Mahajan, Advocate for the petitioner.

Ms. Sakshi Bakshi, A.A.G., Punjab.

Mr. Vishal Munjal, Advocate for the complainant.

RAJESH BHARDWAJ.J (Oral)

The present petition has been filed under Section 439 Cr.P.C for grant of regular bail to the petitioner in FIR No.54 dated 29.6.2021 registered under Sections 376, 511, 354-B, 458, 506, 323 IPC at Police Station, Ghuman Kalan, District Gurdaspur.

As per facts of the case, present FIR was lodged by the prosecutrix on the basis of allegations that her husband is an army personnel and is posted in Assam. She is living with her in-laws and a minor daughter, who is 1 ½ years old. On the intervening night of 26/27.6.2021 while she was asleep, the petitioner, who was their neighbor trespassed in their house and gagged her mouth. He attempted to commit a wrong act with her but on her raising alarm the family members got up and the petitioner escaped from the spot. The FIR was lodged to take legal action against the culprit.

The investigation commenced and petitioner was arrested on 30.6.2021. He approached learned Addl. Sessions Judge, Gurdaspur for grant of bail, however, after hearing the parties, the same was declined vide order dated 3.8.2021. Aggrieved by the same petitioner has approached this

court for grant of bail.

Learned counsel for the petitioner has vehemently contended that the petitioner has been falsely and frivolously implicated in the present case. It is submitted that prosecutrix is a married lady aged about 29 years and both petitioner and prosecutrix are neighbors, however, due to some misunderstanding between the families, the present FIR was lodged. It is submitted that with the intervention of the respectables the matter has already been resolved and it is because of this fact that the parties had filed a petition for quashing of the present FIR. It is submitted that after completion of investigation the charges have been framed, however, from the last number of occasions despite summons prosecutrix never turned up and the petitioner is behind bars due to her non-appearance. Counsel has placed on record zimni order dated 21.1.2022 of the Trial Court, wherein it is recorded that despite having served the notice to the prosecutrix, no one was present and hence the bailable warrants in the sum of Rs.5,000/- were issued for 9.2.2022. It is further submitted that petitioner has never been involved in similar nature of case and as the investigation already stands completed, the petitioner be enlarged on bail.

Learned counsel for the complainant has not opposed the submissions made by counsel for the petitioner. He has also affirmed the factum of settlement between the parties.

Learned State counsel has submitted that there are specific allegations against the petitioner and he attempted to commit rape with the prosecutrix, however, she candidly submits that investigation already stands completed and charges have also been framed. It is further submitted that due to non-appearance of prosecutrix she could not be examined so

far.

I have heard learned counsel for the parties at length and have gone through the record carefully.

Admittedly, petitioner is behind bars since 30.6.2021. The prosecutrix is 29 years of age and the allegations pertain to attempt of rape. The investigation in the case already stands completed and even the charges have been framed, however, the prosecutrix has not appeared before the Trial Court. It is also admitted position that parties have amicably settled their dispute and even a petition for quashing of present FIR has already been filed in this Court. In the overall facts and circumstances of the case, this Court finds that counsel for petitioner succeeds in making out a case for grant of bail to the petitioner.

In the totality of facts and circumstances and without making any observation on merits, present petition is allowed. Petitioner be enlarged on bail on his furnishing bail/surety bonds subject to satisfaction of Trial Court/Duty Magistrate, concerned. Nothing stated herein shall be treated as an expression on the merits of the case.

(RAJESH BHARDWAJ)
JUDGE

14.03.2022

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Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No