

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

CRM-M-37572-2022
Date of decision: 29.08.2022

Waseem Akaram

.....Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Atul Pratap Dhankar, Advocate, for the petitioner.
Mr. Mr. Neeraj Poswal, Assistant Advocate General, Haryana.

RAJESH BHARDWAJ, J.

The petitioner has approached this Court by way of filing the present 3rd petition for grant of regular bail in a case FIR No.45, dated 4.2.2021, registered under Section 376, 354-A, 342, 506, 34 IPC, at Police Station Ferozepur Jhirka, District Mewat at Nuh.

As per factual matrix of the case, the FIR in question was lodged by the victim herself (name concealed), wherein it was alleged that she was 18 years of age and used to do the household work. On 3.2.2021, when her parents were not at home, she went to the fields at about 4:00 pm to collect fodder. Fields of Waseem (petitioner) are also adjacent to the fields of the prosecutrix. She saw that Waseem was watering his fields. Finding her alone, he took her into the room in the fields and there committed wrong act with her. He kept her for whole of the night and thereafter, dropped her at 6:00 am on the highway near her village. She was threatened not to disclose the same to anyone, failing which he would kill her. On returning home, she disclosed everything to her parents. Thereafter, the FIR was lodged to take legal action

against the accused. On registration of the FIR, the investigation commenced. On recovery of the prosecutrix, she was produced before the learned Magistrate for recording her statement under Section 164 Cr.P.C. and she was medico legally examined. The petitioner was arrested on 14.4.2021. He approached the learned Additional Sessions Judge, Fast Track Court for trial of Rape Cases, Mewat at Nuh, for grant of regular bail, who after hearing both the sides declined the same, vide its order dated 14.9.2021. Aggrieved by the same, the petitioner has approached this Court by way of filing the present 3rd petition for grant of regular bail.

Learned counsel for the petitioner has submitted that the prosecutrix was in relationship with one Rashid and she did not name the petitioner in her statement recorded under Section 164 Cr.P.C. as well. However, she improved her statement when compared with her statement made at the time of lodging of the FIR. He submits that there is unexplained delay in lodging the FIR. He submits that the prosecutrix was medico legally examined and on the perusal of the MLR, it is apparent that there are no mark of injuries on the body of the prosecutrix suggesting that there are no signs of struggle and hence, she was a consenting party. He further submits that from the reading of the FSL report, it is apparent that no semen was detected and hence, the ocular version was not medically corroborated. He submits that the prosecutrix has been examined now and hence, in the facts and circumstances of the case, the petitioner deserves to be granted bail.

Learned State counsel has opposed the submissions made by learned counsel for the petitioner. He has submitted that there are specific allegations made by the prosecutrix against the petitioner in the FIR as well as in her statement recorded under Section 164 Cr.P.C. He submits that the

prosecutrix was examined by the trial Court as PW-6 and she has duly supported the case of the prosecution, wherein, she deposed that the petitioner gagged her mouth and he alongwith the co-accused raped her. He also submits that out of total 14 prosecution witnesses, 11 witnesses have already been examined and thus, the trial is virtually at its final stage. He has submitted that earlier petition of the petitioner was dismissed as withdrawn order dated 24.5.2022 and there are no change of circumstances since then and thus, the present petition deserves to be dismissed.

Heard.

After hearing learned counsel for the parties and perusing the record, it is evident that there are specific allegations made by the prosecutrix of committing rape with her by the petitioner in her statement made in the FIR and thereafter in her statement recorded under Section 164 Cr.P.C. The prosecutrix is now examined by the trial Court as PW-6 and she stood firm with the prosecution before the trial Court as well. Out of total 14 prosecution witnesses, 11 witnesses have already been examined and thus, it is evident that the trial is virtually at its fag end. Besides this the earlier petition filed by the petitioner was dismissed as withdrawn on 25.4.2022 and thus, there are no change of circumstances since then. In the overall facts and circumstances of the case, this Court does not find any merit in the present petition, thus, being devoid of any merit is hereby dismissed.

(RAJESH BHARDWAJ)
JUDGE

29.08.2022
sharmila

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No