

**221+108 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CRM-1351-2022 in/and
CRM-M-43047-2021
Date of Decision: 14.01.2022**

Ajay

..... Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Sandeep K. Sharma, Advocate, for the petitioner.
Mr. Vishal Kashyap, Deputy Advocate General, Haryana.

Rajesh Bhardwaj, J. (ORAL)

Matter has been taken up through video conferencing via Webex facility in the light of the Pandemic Covid-19 situation and as per instructions.

CRM-1351-2022

Annexure P-8 is taken on record.

The application stands allowed.

CRM-M-43047-2021

Prayer in the present petition is for the grant of regular bail to the petitioner in a case FIR No.241 dated 27.5.2021, registered under Sections 354-A, 452, 323, 328, 506, 34 IPC and Sections 8 and 10 of Protection of Children from Sexual Offences Act, 2012, at Police Station Meham District Rohtak.

As per factual matrix of the case, the FIR in question was registered by the victim herself, wherein, it was alleged that one boy of her

village, namely, Shashi son Jai Parkash used to harass her for the last many days. Complaint against him was already made. On 26.5.2021 at about 12:00 in the night Shashi came to the room on the upper portion of her house and started consuming liquor. After consuming liquor, he came down and dragged her upstairs and forcibly made her to drink liquor after mixing the same in cold drink and started teasing her. On her objection, she was beaten by him. When she cried, on hearing her voice her mother came upstairs and Shashi fled away from the spot. The FIR was registered for taking legal action against the culprit. After lodging the FIR on 27.5.2021, the petitioner was arrested on 25.6.2021. He approached the learned Additional Sessions Judge, Rohtak for grant of bail, who after hearing the parties, declined the same vide its order dated 1.10.2021. Aggrieved by the same, the petitioner approached this Court by way of filing the present petition for grant of regular bail.

Learned counsel for the petitioner has contended that the petitioner is behind bars since 25.6.2021. He submits that the FIR in question was registered by the victim herself on 27.5.2021 and apparently, there was no whisper regarding the name of the petitioner in the FIR. He has further submits that on 28.5.2021 the statement of the prosecutrix was recorded under Section 164 Cr.P.C. and even in this statement the petitioner was not named. However, after due deliberation another complaint was filed by the prosecutrix on 31.5.2021 i.e. after 4 days of the FIR and the petitioner was falsely named in this case. He submits that the prosecutrix is now examined by the trial Court as PW-4, which has been placed on record. He has drawn attention of this Court to the deposition of the prosecutrix,

wherein, she has not supported the case of the prosecution and was declared hostile on the request of learned Public Prosecutor. He submits that as the prosecutrix herself has not supported the case of the prosecution before the trial Court as well, the false implication of the petitioner is writ large and he deserves to be enlarged on bail.

Learned State counsel has opposed the submissions made by learned counsel for the petitioner and submitted that the prosecutrix is minor and in her statement recorded on 31.5.2021, the petitioner was duly named. However, he candidly acknowledges that the prosecutrix has not supported the case of the prosecution and declared hostile. He further submits that out of total 22 prosecution witnesses, 4 witnesses have been examined so far.

Heard.

The petitioner is behind bars since 25.6.2021. The material witness i.e. the victim has not supported the case of the prosecution before the trial Court. It is apparent that neither the petitioner is named in the FIR nor in the statement recorded under Section 164 Cr.P.C as well. However, his name cropped up in the case 4 days after the registration of the FIR. The veracity of the allegations would be evaluated by the trial Court only after conclusion of the trial. This Court would refrain itself from commenting on the merits of the case. The trial of the case will take sufficiently long time and no useful purpose will be served by keeping the petitioner in custody for such a long time. In the overall facts and circumstances of the case, I am of the opinion that learned counsel for the petitioner has been able to make out a case for grant of regular bail to the

petitioner. Accordingly, the present petition is allowed and the petitioner is ordered to be released on bail to the satisfaction of the concerned trial Court/Duty Magistrate. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

14.01.2022
sharmila

(RAJESH BHARDWAJ)
JUDGE

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