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IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

CRM-M-38905-2020  
Date of decision : 03.02.2022

Rinku @ Ramesh

.... Petitioner

Versus

State of Haryana

.... Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

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Present: Mr. Ravi Sodhi, Advocate and  
Mr. M.M. Pandey, Advocate  
for the petitioner.

Mr. Vishal Kashyap, DAG, Haryana.

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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.

Prayer in the present petition is for grant of regular bail to the petitioner in case FIR No.223 dated 13.05.2020, under Sections 328, 376, 120-B IPC, registered at Police Station Shahabad, District Kurukshetra.

As per factual matrix of the case, the present FIR was lodged by the prosecutrix herself. It was alleged that on 12<sup>th</sup> May, 2020, she went to take the medicines from Government Hospital, Shahabad. Thereafter, she went to the house of Suman, who is resident of Shahabad and met Geeta and Anita there. All three compelled her to consume cold drink and clandestinely intoxicated her. Resultantly, she became unconscious and next day, she regained her consciousness and found herself in the house of Rinku, who committed rape

with her. She ran away from there in order to save her life. The request was made to take the legal action against the culprits. The FIR was lodged and the investigating agency commenced the investigation. The petitioner was arrested on 14<sup>th</sup> May, 2020. He approached the learned Additional Sessions Judge, Kurukshetra for grant of bail, who after hearing counsel for the parties, declined the same vide his order dated 11<sup>th</sup> August, 2020. Aggrieved by the same, the petitioner has approached this Court by way of filing the present petition.

Learned counsel for the petitioner has vehemently contended that the present FIR is nothing but an abuse of the process of the Court. He submits that the prosecutrix is of the age of majority and she has lodged the present FIR clandestinely with due deliberations only in order to harass the innocent petitioner. He has drawn the attention of this Court to the medical certificate issued to the petitioner by LNJP Hospital, Kurukshetra wherein, he has been shown to have Locomotor Disability to the extent of 70%. He submits that from the bare reading of the FIR, false implication of the petitioner is writ large. He submits that in all, there were four accused in this case and rest three accused have already been granted bail. He has submitted that petitioner is in fact, husband of the complainant/prosecutrix. However, the prosecutrix mischievously implicated him in the present FIR. He submits that the *modus operandi* adopted by the prosecutrix by keeping the petitioner behind the bars is evident from the very fact that the challan was filed in the case and charges were thereafter, framed. After the framing of charge, the trial Court has summoned the prosecutrix for her examination time and again, however, till date, she has not appeared before the trial Court. He submits that the trial Court

has even issued theailable warrants for securing her presence, however, she did not adhere to the same and position remained the same. He submits that in the peculiar facts and circumstances of the case, the only motive of the prosecutrix is to keep the petitioner behind the bars as long as possible. He has submitted that the petitioner has virtually completed about 20 months in custody and hence, he should be enlarged on bail.

Learned State counsel has opposed the submissions made by learned counsel for the petitioner. He, on instructions from SI Paramjit Kaur, submits that the statement of the prosecutrix was recorded under Section 161 Cr.P.C. and she had duly clarified that the name Rinku was mentioned in the FIR whereas, the said Rinku is different from the petitioner. He further submits that her statement was also recorded under Section 164 Cr.P.C. and she had duly supported her version and specifically alleged that the petitioner has committed rape upon her. However, he has submitted that the prosecutrix has been duly summoned by the trial Court for her examination but till date she has not turned up. He also acknowledges that rest of the co-accused are already on bail. He has submitted that in all, there are 15 prosecution witnesses, however, none has been examined so far.

I have heard learned counsel for the parties and perused the records.

The prosecutrix is of the age of majority who is author of the FIR as well. In the FIR, she has levelled the allegations of rape against the petitioner. Thereafter, in her statements under Sections 161 and 164 Cr.P.C., she has tried to improve her earlier version. However, from the arguments advanced by counsel for the parties, it is apparent that the challan in this case

was filed on 30<sup>th</sup> July, 2020 and the supplementary challan was presented on 20<sup>th</sup> November, 2020. Thereafter, the charges were framed by the trial Court on 8<sup>th</sup> October, 2021. However, despite number of opportunities, the prosecutrix has not turned up before the trial Court. The evaluation of the allegations and the counter-allegations is totally in the domain of the trial Court to be considered on the conclusion of the trial.

Taking into consideration above facts, this Court is convinced that the counsel for the petitioner succeeds in making out a case for grant of regular bail. In the overall facts and circumstances of the case, it is apparent that the trial of the case will take sufficient time and no useful purpose will be served by keeping the petitioner in custody for such a long time. Accordingly, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail/surety bonds 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.

**03.02.2022**  
*m. sharma*

**( RAJESH BHARDWAJ )**  
**JUDGE**

|                           |        |
|---------------------------|--------|
| Whether speaking/reasoned | Yes/No |
| Whether Reportable        | Yes/No |