

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

CRM-M-45497-2021

Date of Decision: 18.8.2022

Anil alias Nitu

..... Petitioner

Versus

State of Haryana and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Vikas Chaudhary, Advocate, for the petitioner.

Mr. Neeraj Poswal, Assistant Advocate General, Haryana.

Rajesh Bhardwaj, J. (ORAL)

Prayer in the present petition is for the grant of regular bail to the petitioner in a case FIR No.320 dated 17.7.2020, registered under Sections 376, 452, 506, 508, 328 IPC and Section 3 of SC & SC Act, at Police Station Quilla Panipat.

Succinctly, the facts of the case are that the present complaint was made by the prosecutrix herself, wherein, it was alleged that on 17.7.2020 at about 11:30 a.m., when she was alone at home, Nitu i.e. the petitioner forcibly entered her house and threatened her to be killed. He forcibly committed rape upon her and made video film and threatened that in case she disclosed anything about the same, she would be eliminated and he would malign her reputation. When her husband returned from work, she disclosed everything to him and they went to Police Station for filing the complaint. Request was made to take legal action against the culprit. On the basis of complaint, the FIR was lodged and the investigation commenced. The prosecutrix was medically examined and her statement under Section 164 Cr.P.C. was recorded. The petitioner was arrested on 20.7.2020. He approached the Court of learned Addl. Sessions Judge, Panipat for grant of

bail, who, after hearing the parties, declined the same vide order dated 11.11.2020. Aggrieved by the same, the petitioner has approached this Court by way of filing the present petition for grant of bail.

Learned counsel for the petitioner has vehemently contended that the petitioner has been falsely implicated by the prosecutrix in this case. He has submitted that the petitioner is married person of 35 years of age, whereas, the prosecutrix is equally married lady of 29 years of age. He has submitted that the brother of the petitioner had eloped with one girl from the same village belonging to the community of the prosecutrix, hence, in order to wreak vengeance the petitioner was falsely implicated in this case. He has submitted that during the investigation, the prosecutrix was medically examined and semen was detected as per the report received. He submits that the alleged occurrence took place on 17.7.2020, whereas the prosecutrix was medically examined on the next date on 18.7.2020. He has submitted that as the prosecutrix is a married woman and detection of semen leads nowhere and the petitioner cannot be held guilty on account of the same. He has submitted that from the reading of the allegations in the FIR, it is apparent that if the same are to be taken true then at the most the relationship between the petitioner and the prosecutrix could only be consensual. Hence, in the facts and circumstances, the offence under Section 376 IPC would not be attracted. He has submitted that the petitioner was implicated in another FIR, in which he is already on bail. He submits that even otherwise the material witnesses including the prosecutrix have already been examined and hence, the probability of influencing the prosecution witnesses by the petitioner no more survives. He submits that the petitioner is behind bars from the last more than two years and thus,

deserves to be granted bail.

Learned State counsel has opposed the submissions made by learned counsel for the petitioner. He on instructions from ASI Tasvir Singh, submits that there are specific allegations against the petitioner. He has submitted that the statement of the prosecutrix was recorded under Section 164 Cr.P.C., wherein she duly supported the case of the prosecution and after having been conducted her medical examination, semen was also detected from the items belonging to her. He submits that the prosecutrix already stands examined and she has supported the case of the prosecution. However, he submits that both the petitioner and the prosecutrix are of the age of the majority. He further submits that there is one more FIR against the petitioner bearing No.796/2015 registered under Sections 147, 149, 323, 324, 341 and 506 IPC at Police Station City Panipat, in which he is on bail.

Heard.

Admittedly, both the petitioner and the prosecutrix are of the age of the majority. The petitioner is behind bars since 20.7.2020. Though semen has been detected as per the medical report, however, from the facts and circumstances of the case, it is apparent that the prosecutrix is a married woman. The prosecutrix already stands examined and thus, probability of the petitioner of influencing the prosecution witnesses no more survives. The veracity of the allegations of course would be evaluated by the trial Court only after conclusion of the trial. This Court would refrain itself from commenting anything on the merits of the case, however, considering the prayer for grant of bail to the petitioner, I am of the view that learned counsel for the petitioner has been able to make out a case for grant of regular bail to the petitioner. The trial would take sufficient long time for

its conclusion.

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.

18.8.2022		(RAJESH BHARDWAJ)
sharmila		JUDGE
	Whether Speaking/Reasoned :	Yes/No
	Whether Reportable :	Yes/No