

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Sr. No. 298

CRM-M-40720-2022

Date of decision : 27.09.2022

Ganesh Kumar

..... Petitioner

VERSUS

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr.Ankur Malik, Advocate, for the petitioner.

Mr.M.S.Nagra, AAG, Punjab.

DEEPAK SIBAL, J. (ORAL)

The present petition has been filed under Section 439 Cr.P.C. for the grant of regular bail in FIR No.77 dated 20.05.2022 registered under Section 376 IPC at Police Station Garhshankar, District Hoshiarpur.

Briefly stated, the case of the prosecution is that the prosecutrix, having attained majority, developed friendship with the petitioner through Facebook. Thereafter they talked to each other on telephone as also met on several occasions. In the year 2020, on the asking of the petitioner the prosecutrix went to a hotel where, on the pretext of marriage, the petitioner had sexual relations with the prosecutrix but after two years of their relationship the petitioner refused to marry her and even did not pick up her phone calls.

Learned counsel for the petitioner contends that the petitioner is 27 years old; he does not have any other criminal antecedents; he is in custody since 21.05.2022; all material prosecution witnesses, including the prosecutrix, stand examined in the petitioner's trial; during the course of her examination before the Trial Court the prosecutrix has specifically stated that she and the petitioner, both having attained majority, were in a consensual relationship; as per the medical evidence on record, no injury has been found on the prosecutrix's person, showing

falsity in the prosecution's case; as on date there is no forensic evidence to link the petitioner with the crime he is accused of and that since 08 prosecution witnesses still remain to be examined in the petitioner's trial, the same will take a long time to conclude.

Learned State counsel opposes the grant of bail to the petitioner on the ground that the petitioner has committed rape and that if released on bail he may influence the trial.

The petitioner is 27 years old; he does not have any other criminal antecedents; he is in custody since 21.05.2022; all material prosecution witnesses, including the prosecutrix, already stand examined in the petitioner's trial; the prosecutrix appeared before the Trial Court and stated that the physical relations between the petitioner and herself, both majors, were consensual; the medical evidence on record does not show any injury on the prosecutrix's person and that since 08 prosecution witnesses still remain to be examined in the petitioner's trial, the same is likely to take a long time to conclude.

In view of the above, the present case is considered to be a fit one in which the petitioner be directed to be released on regular bail. Resultantly, subject to the satisfaction of the CJM/Duty Magistrate, Hoshiarpur, the petitioner is directed to be released on bail.

It is clarified that the above observations have been made only for the limited purpose of deciding the present regular bail application and the same would not be construed to be an expression of opinion on the merits of the case.

27.09.2022
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Whether speaking/reasoned : Yes / No
Whether reportable : Yes / No

[DEEPAK SIBAL]
JUDGE