

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Sr. No. 209

CRM-M-49744-2021

Date of decision : 25.05.2022

Shubham

..... Petitioner

VERSUS

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr.Parminder Singh, Advocate, for the petitioner.

Mr.Sumit Jain, Addl.A.G., Haryana.

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.353 dated 14.09.2021 registered under Sections 376 and 376(2)(n) IPC at Police Station Kunjpura, District Karnal.

The petitioner is being prosecuted for having raped the prosecutrix after giving her intoxicants.

Learned counsel for the petitioner submits that the petitioner and the prosecutrix are neighbours; the petitioner has been falsely implicated in this case due to a boundary dispute between the petitioner and the complainant's husband; the petitioner is in custody since 17.09.2021; the report under Section 173 Cr.P.C. has already been filed by the State and therefore, the petitioner is in no position to influence the investigation; the case of the prosecution is that the petitioner had raped the prosecutrix three years ago; however, for three long years she did not even raise a little finger to protest such act on the petitioner's part; the prosecutrix's husband was also aware of the alleged act on the petitioner's part but he also for over three years did not file any complaint; there is no medical evidence to support the prosecution's case; there is an unexplained delay of three years in the lodging of the FIR; the prosecutrix refused to get herself medically examined; there is also no forensic evidence to connect the petitioner with the crime he is alleged to have

committed; the story of the prosecution that the petitioner blackmailed the prosecutrix with an obscene video of the prosecutrix is also apparently false as no such video has seen the light of the day and this is in spite of the fact that the police had specifically sought from the prosecutrix to deliver to them such video and that the petitioner's trial, which is yet to begin, will take a long time to conclude.

Learned State counsel opposes grant of bail to the petitioner on the ground that he has committed rape upon the prosecutrix.

The petitioner is in custody since 17.09.2021; report under Section 173 Cr.P.C. has already been filed and therefore he is in no position to influence the investigation process; there is an unexplained delay of three years in lodging of the FIR; there is no medical evidence to support the prosecution's case and this is so because the prosecutrix refused to get herself medically examined; there is also no forensic evidence to connect the petitioner with the crime he is alleged to have committed; no obscene video of the prosecutrix is found in the report filed by the police under Section 173 Cr.P.C. and that the petitioner's trial, which is yet to begin, 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, Karnal, 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.

25.05.2022

shamsher

[DEEPAK SIBAL]
JUDGE

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