

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(215)

CRM-M-50745-2021
Date of Decision: 07.12.2022

Suchit Sharma

--Petitioner

Versus

State of Haryana

--Respondent

CORAM:- HON'BLE MR. JUSTICE RAJESH BHARDWAJ.

Present:- Mr. Munfaid Khan, Advocate for the petitioner.

Mr. B.S. Virk, DAG, Haryana.

RAJESH BHARDWAJ.J (Oral)

The present petition has been filed under Section 439 Cr.P.C seeking the benefit of regular bail to the petitioner in case FIR No.378 dated 16.8.2019 under sections 376, 506, 511 I.P.C, registered at Police Station, Bilaspur, District Gurugram.

As per factual matrix, a complaint was lodged by the maternal uncle of the prosecutrix, wherein it was alleged that on 18.7.2019 at about 11 AM the prosecutrix went to the fields for collecting fodder. There one unknown person tried to pull her hand with bad intention. When the victim raised noise, the labourers from the adjoining fields attracted and the accused escaped from there. It was alleged that had the other labourers not reached, the accused would have committed the bad act with the victim. While fleeing from the spot the phone of the accused fell down and the same was recovered. On 12.8.2019 a phone call was received on the phone of their servant Guddu and the caller threatened to kill the complainant. A request was made to take legal action against the culprit.

On the basis of the complaint, present FIR was lodged and investigation commenced. Statements of the witnesses were recorded by the investigating agency, however, the consent for medical examination of the prosecutrix was not given by the family members and thus she could not be medically examined. Petitioner was arrested on 23.2.2021. He approached learned Addl. Sessions Judge, Fast Track Court, Gurugram for grant of bail, however, after hearing the parties, the same was declined vide order dated 2.8.2021. Aggrieved by the same petitioner has approached this court for grant of bail.

Learned counsel for the petitioner vehemently contends that petitioner has been falsely implicated in the present case. He submits that the alleged occurrence had taken place in the broad day light and there is no probability of the same. He submits that petitioner is facing prosecution for the charges of attempt to rape. Counsel submits that the allegations made by the prosecutrix are not even medically corroborated as she had refused to undergo medical examination. It is submitted that after a thorough investigation challan was presented and charges were framed and now the learned Trial Court has examined the prosecutrix as PW-9. Counsel submits that the prosecutrix deposed before the learned Trial Court that she was unable to identify the accused present in the court as she was scared at that time. During her examination she deposed before the learned Trial Court that she did not know the name of the person, who tried to drag her and the name of that person was Guddu. Counsel submits that the prosecutrix is of the age of majority and petitioner has not even been identified and thus his false implication is writ large. He submits that

petitioner is behind bars for the last more than 1 ½ years and as the prosecutrix already stand examined, there is no apprehension of petitioner influencing her. He submits that petitioner has no criminal antecedents. It is submitted that in the overall facts and circumstances of the case, petitioner deserves to be enlarged on bail.

On the other hand, learned State counsel has opposed the submissions made by counsel for the petitioner and has submitted that there are specific allegations against the petitioner. He submits that while fleeing away from the spot, the phone of the petitioner fell down which was recovered. State Counsel submits that in all there are 13 prosecution witnesses out of which prosecutrix has been examined. He submits that as per information provided to him petitioner has no criminal antecedents.

I have heard learned counsel for the parties at length and have gone through the records carefully.

Admittedly, both prosecutrix and petitioner are of the age of majority. The alleged occurrence took place in broad day light. The prosecutrix has already been examined before the Trial Court and she has deposed that she was unable to identify the accused present in court. As the prosecutrix has been examined before the Trial Court, petitioner is not in a position to influence her. There is nothing on record to show that petitioner has criminal antecedents.

This court would refrain itself from commenting on the merits of the case, as the allegations and counter allegations would be assessed only after evaluation of the complete evidence led by both the sides before the Trial Court. The trial would take sufficiently long time in its conclusion.

In the totality of facts and circumstances and without making any observation on merits, present petition is allowed. Petitioner be enlarged on bail on his furnishing bail/surety bonds subject to satisfaction of Trial Court/Duty Magistrate, concerned. Nothing stated herein shall be treated as an expression on the merits of the case.

(RAJESH BHARDWAJ)
JUDGE

07.12.2022

lucky

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No