

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

CRM-M-48028-2022

Date of Decision: 21.10.2022

Raju

..... Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr.Rajesh Lamba, Advocate, for the petitioner.

Mr. Kirpal Singh Thakur, Asstt. Advocate General, Haryana.

Rajesh Bhardwaj, J. (ORAL)

This is the second petition filed by the petitioner for grant of regular bail in a case FIR No.07 dated 06.01.2022, registered under Sections 452, 376, 511 IPC, at Police Station Pinangwa, District Nuh.

As per facts of the case, the FIR was lodged by the prosecutrix (name concealed). The sum and substance of the allegations made by the prosecutrix in the FIR is that she is resident of village Jalika, District Nuh. Her husband works as a labourer in Gurugram and thus, she resides alone in the house. Due to the same, accused Raju finding opportunity entered her house and tried to commit rape on her. She raised noise and accused escaped from the scene of occurrence. Thereafter, her husband called on 112 and the police reached the spot. Request was made to lodge the FIR and take the legal action against the culprit. On the basis of the complaint, the FIR was registered and the investigation commenced. The petitioner was arrested on 7.1.2022. The petitioner approached this Court by way of filing petition for grant of regular bail, which was dismissed as withdrawn on 2.8.2022. He approached the Court of learned Addl. Sessions Judge, Fast Track Court for trial of Rape Cases, Nuh for grant of bail, who, after hearing the parties, declined the same vide order dated 7.10.2022.

Aggrieved by the same, the petitioner has approached this Court by way of filing the present second petition for grant of bail.

Learned counsel for the petitioner has vehemently contended that the petitioner has been falsely implicated in this case. He submits that the petitioner and the prosecutrix both are of the age of the majority. He submits that from the bare perusal of the allegations in the FIR, it is apparent that there is no probability of the allegations being true. To buttress his arguments, he submits that the prosecutrix, who is mother of five children, has been examined by the trial Court as PW-5. He has drawn the attention of this Court to the deposition of the prosecutrix, wherein she deposed that on 5.1.2022 in the night at about 8:30/9:00 pm, some one entered her house and she raised noise and thereafter he fled away. She deposed that the accused present in the Court never entered her house and he never made attempt to rape her, thus, on request of learned Public Prosecutor, she was declared hostile. He has submitted that the prosecutrix herself has not supported the case of the prosecution and thus, there is nothing to support the case of the prosecution. He has submitted that the petitioner has no criminal antecedents and thus, in the facts and circumstances, he deserves to be granted bail.

On the other hand, learned State counsel on instructions from ASI Mamta submits that there are specific allegations against the petitioner made by the prosecutrix. However, he candidly acknowledges that the prosecutrix is mother of five children and has not supported the case of the prosecution and thus, was declared hostile. He submits that as per the instructions received, the petitioner has no criminal antecedents and he has not been involved in any other case except the present case. He further

submits that out of total 10 prosecution witnesses, 6 witness including the prosecutrix already stand examined.

Heard.

Admittedly, the petitioner and the prosecutrix both are of the age of the majority. The allegations made by the prosecutrix are regarding attempt to rape by the petitioner. The prosecutrix has been examined by the trial Court as PW-5. A perusal of her deposition would show that the accused person in the Court never entered in her house and never made an attempt to rape with her and thus, she was declared hostile. As per the submissions made before this Court out of totally 10 witnesses, 6 witnesses including the prosecutrix already stand examined. There is nothing on record to show that the petitioner has any criminal antecedents. The veracity of the allegations 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 sufficiently 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.

21.10.2022

sharmila

Whether Speaking/Reasoned :
Whether Reportable :

(RAJESH BHARDWAJ)
JUDGE

Yes/No
Yes/No