

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(236)

CRM-M-48839-2022
Date of decision:- 12.12.2022

Gautam

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Balraj Gujjar, Advocate
for the petitioner.

Ms. Ankita Ahuja, AAG, Haryana
for State-respondent.

SUVIR SEHGAL, J. (ORAL)

Instant petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 (for short “the Code”) seeking grant of post-arrest bail in case FIR No.89 dated 30.07.2022, registered for offences under Sections 376(2)(n) and 506 of the Indian Penal Code, 1860, at Police Station Women Central, Faridabad, Haryana.

Case of the prosecution is that FIR has been registered against the petitioner on a complaint by a twenty two year old lady (hereinafter referred as “the prosecutrix”) on the allegation that in the month of May, 2022, when she was alone at home, Gautam, present petitioner, came to her house, forcibly kissed her and took her photographs. Under the threat of circulating the photographs, he sexually exploited her on numerous occasions and has been threatening her.

Counsel for the petitioner has argued that the petitioner and the prosecutrix were in a consensual relationship. He has made a reference to the live-in-relationship deed dated 25.07.2022, Annexure P-1, which has been signed by both of them and has been admitted by the the prosecutrix, who has been examined, in her cross-examination. Counsel submits that there is an unexplained delay of more than two months in the lodging of the FIR. He submits that the petitioner, who is in custody since 02.08.2022, deserves to be enlarged on bail as the crucial prosecution witness has been examined.

Per contra, learned State counsel, upon instructions from L/ASI, Neetu, has opposed the petition and has submitted that the petitioner has been specifically named in the FIR and there are allegations of sexual assault against him. She submits that the prosecutrix has supported the allegations in her statement under Section 164 of the Code as well as in her examination-in-chief. She submits that out of fourteen prosecution witnesses, only the prosecutrix has been examined.

Having considered the submissions made by counsel for the parties, this Court is prima facie of the view that the issue as to whether physical relationship was consensual or not would be determined by the Trial Court. Petitioner, who is in detention for the last more than four months, deserves to be enlarged on bail during the pendency of the trial as the prosecutrix has been examined and the the trial is not likely to conclude in near future.

Without adverting to the merits or demerits of the arguments addressed by counsel for the parties, petition is allowed. Petitioner is ordered to be released on bail on furnishing adequate bail/surety bonds to the satisfaction of the Area Magistrate/Duty Magistrate concerned.

It is clarified that nothing said hereinabove shall be construed to be an expression of opinion on the merits of the case.

(SUVIR SEHGAL)
JUDGE

12.12.2022

Kamal

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No