

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

CRM-M-47957-2022

Date of Decision: 21.10.2022

Taruna Salan

..... Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr.Manmeet Singh Bindra, Advocate, for
Mr. Punit Malik, Advocate, for the petitioner.
Mr. Kirpal Singh Thakur, Asstt. Advocate General, Haryana.

Rajesh Bhardwaj, J. (ORAL)

Prayer in the present petition is for the grant of regular bail to the petitioner in a case FIR No.242 dated 31.10.2021, registered under Sections 323, 328, 365, 376, 392, 419, 420, 506, 201, 120-B, 34 IPC, at Police Station Udhog Vihar, Gurugram.

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 on 29.10.2021 at about 6:00 pm, a girl Luthra called her and inform that they are coming to meet her. The complainant gave her address of her company and thereafter, the girl Luthra called her. The complainant came out of her company office and sat in the car near Hyundai Showroom Udyog Vihar Phase-4, Gurugram. After driving for some distance, the lady sitting in the car asked the driver to prepare a drink. On her asking, the driver prepared the drink and the lady gave the drink forcefully to her. She felt dizziness and she found herself in a room, where she was kept illegally confined from 29.10.2021 to 30.10.2021, where a

man in the room did wrong act with her without her consent and her gold chain was also snatched. Request was made to lodge the FIR and take the legal action against the culprits. On the basis of the complaint, the FIR was registered and the investigation commenced. The petitioner was arrested on 12.11.2021. She approached the Court of learned Addl. Sessions Judge, (Fast Track Court), Gurugram for grant of bail, who, after hearing the parties, declined the same vide order dated 30.9.2022. Aggrieved by the same, the petitioner has approached this Court by way of filing the present 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 and both of them knew each other. He has submitted that from the bare reading of the allegations in the FIR, it is apparent that the prosecutrix has made a cock and bull story in order to implicate the petitioner in a false case. He has submitted that on the appreciation of the allegations made in the FIR, the role attributed to the petitioner that she allegedly gave drink to the petitioner and thereafter she was confined in a room. He has submitted that the complainant-prosecutrix is very well educated and of the age of the majority and hence, the allegations levelled in the FIR cannot be accepted to be true. To buttress his arguments, he submits that now the the prosecutrix has been examined by the trial Court as PW-3. He has drawn the attention of this Court to the deposition of the prosecutrix as PW-3 in the Court. He has submitted that the prosecutrix deposed that she had consensual relationship with co-accused Avinash and after having taken the drink, both of them had

the consensual physical relationship. She further deposed that the accused i.e. the petitioner never forced to consume her beer and they never tied her hands and legs as alleged in the FIR. He submits that the petitioner has no criminal antecedents. He submits that since the prosecutrix, who is the age of the majority, has not supported the case of the prosecution and the allegations against the petitioner are not supported by any authenticated evidence, the petitioner deserves to be granted bail.

Learned State counsel on instructions from ASI Sandeep has submitted that there are specific allegations against the petitioner regarding administering intoxicants to the complainant-prosecutrix. He submits that thereafter, she was taken to a room, where she was kept illegally and sexual offence was committed with her. He submits that the petitioner and the co-accused are already challaned. However, he candidly acknowledges that the prosecutrix has been examined by the trial Court but she 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 she has not been involved in any other case except the present case. He further submits that out of total 33 prosecution witnesses, 4 witnesses including the prosecutrix already stand examined.

Heard.

Admittedly, the petitioner is behind bars since 12.11.2021. The allegations against her are that she administered a drink to the complainant-prosecutrix while she was being taken in the car. Evidently, the prosecutrix is of the age of the majority. As submitted before this Court she has been examined by the trial Court as PW-3. A perusal of her deposition would

show that the petitioner never forced her to consume any beer. She had physical relationship with co-accused Avinash voluntarily. She further deposed that the accused never snatched mobile phone, ATM card, Aadhar Card, Pan Card and other documents as alleged in the FIR and thus, she was declared hostile on the request of learned Public Prosecutor. As per the submissions made before this Court out of total 33 witnesses, 4 witnesses including the prosecutrix already stands 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

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Whether Speaking/Reasoned :

Whether Reportable :

(RAJESH BHARDWAJ)

JUDGE

Yes/No

Yes/No