

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(110)

CRM-M-49343-2022
Date of Decision: 27.10.2022

Meena

--Petitioner

Versus

State of Haryana & another

--Respondents

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

Present:- Mr. Varun Kumar Jaglan, Advocate for the petitioner.

RAJESH BHARDWAJ.J (Oral)

The present petition has been filed under Section 439(2) Cr.P.C praying for setting aside the impugned order dated 25.8.2022 (Annexure P-4) passed by learned Addl. Sessions Judge, Kaithal, whereby respondent no.2 has been granted concession of regular bail in case FIR No.15 dated 21.2.2022 registered under sections 323, 376D, 506 IPC and sections 3(1)(s), 3(2)(v), 3(2)(va) of SC/ST Act at Police Station Women, Kaithal, District Kaithal.

Learned counsel for the petitioner (prosecutrix) contends that FIR in question was lodged by the prosecutrix herself against respondent no.2, wherein it was alleged that on 15.2.2022 at about 4/5 PM respondent no.2 gave her the lift and promised to get her a job with salary of Rs.10,000/- per month. He allured her on this promise. On 20.2.2022 he informed her on phone that one person would come to take her. Then she received a call from one Vicky, who called her at the New Bus Stand. She was taken in a kotha situated in the fields, where respondent no.2 and co-accused committed rape with her turn by turn. A request was made to take legal action against the culprits. FIR was lodged and investigation

commenced. During investigation respondent no.2 was arrested.

Learned counsel for the petitioner contends that learned Addl. Sessions Judge, Kaithal did not appreciate the fact that trial is at the initial stage and the prosecutrix is a rustic villager. He submits that there were specific allegations made by the prosecutrix against respondent no.2 for committing a heinous offence, however, the learned court failed to appreciate the same. He further submits that the learned Trial Court has not taken into consideration the necessary parameters before considering the grant of bail to respondent no.2. Counsel has relied upon the judicial precedent of *Prasanta Kumar Sarkar Vs. Ashish Chatterjee and another (2010) 14 SCC 496* and submits that the impugned order may be set aside and the bail granted to respondent no.2 may be cancelled.

I have heard learned counsel for the petitioner at length and have gone through the record of the case.

Evidently, both prosecutrix and respondent no.2 are of the age of majority. Learned Trial Court has taken into consideration the overall facts and circumstances of the case, statutory provisions and the law settled and then found respondent no.2 entitled for grant of bail.

Needless to say that the parameters taken into consideration before granting bail are different from the factors which are required for the cancellation of bail. No doubt, respondent no.2 has been charged for the offence which is heinous in nature, however, there is nothing on record to show that the respondent no.2 has ever misused the concession of bail. It is a settled proposition of law that the bail is rule and the jail is an exception. A perusal of the record would show that the learned Trial Court has taken

into consideration all the facts and circumstances of the case and the relevant provisions of law. In all its humility, there is no dispute with regard to the legal proposition as settled by this court in *Prasant Kumar Sarkar's* case (supra) and by the Hon'ble Supreme Court on the issue in hand but in my humble opinion the grant of bail is justifiable in the light of the facts and circumstances of the present case.

In view of the above discussion, this court finds no infirmity in the view taken by the learned Trial Court and the present petition being devoid of any merit is accordingly dismissed.

(RAJESH BHARDWAJ)
JUDGE

27.10.2022

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