

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

CRM-M-53751-2022

Date of Decision: 24.11.2022

Pankaj

..... Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Gourav Verma, 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.392 dated 04.08.2022, registered under Sections 328, 376(2)(N), 420, 506 IPC, at Police Station Civil Line Sonipat, District Sonipat.

As per factual matrix of the case, the present FIR was lodged by the prosecutrix herself (name concealed). It was alleged that on 10.02.2021, she met Pankaj Sharma i.e. the petitioner at Civil Hospital, Sonapat, where she was doing Hindi Stenographer training and Pankaj was appointed there as an Accountant. He contacted her on phone and desired to meet. On her meeting, he gave her a cold drink due to which she became unconscious and on regaining consciousness, she found herself in a room of the Star Guest House. Pankaj Sharma told her that he made her video and in case she divulged anything regarding the same, he would viral the video on the social media. It was alleged that taking undue advantage of the same, the accused had raped her repeatedly. On the threat of video made, he kept on blackmailing her and finally the prosecutrix approached the Police and

made a request to register FIR and to take legal action against the culprit. On the basis of the same, the FIR was registered and the investigation commenced. Statement of the prosecutrix was recorded. An offer was made to the prosecutrix for her medical examination, however, she did not give her consent for the same. The petitioner was arrested on 05.08.2022. The petitioner approached the Court of learned Addl. Sessions Judge, Fast Track Court, Sonapat for grant of bail, who, after hearing the parties, declined the same vide order dated 20.10.2022. Aggrieved by the same, the petitioner has approached this Court by way of filing the present petition for grant of bail.

It has been vehemently contended by learned counsel for the petitioner that the petitioner has been falsely implicated by the prosecutrix in a very clever manner. He has submitted that the prosecutrix is already married and implicated the petitioner, who is unmarried. He submits that the prosecutrix and the petitioner both are of the age of the majority. He has submitted that from the perusal of the allegations in the FIR, it is apparent that the same are false and frivolous, however, the allegations against the petitioner are that he established physical relations with the prosecutrix on the promise of marriage and by threatening her to viral her alleged videos. He submits that during the investigation, the allegations pertaining to making of videos etc. could not be established. He further submits that as both the petitioner and prosecutrix are of the age of the majority, then in view of the law settled by Hon'ble Supreme Court, even if the relationship between both of them was on the promise of marriage, the same would amount to a consensual relationship and thus, the offence under Section 376 IPC would not be attributed. He has submitted that in the background of the

facts and circumstances of the case, the consent of the prosecutrix could not be said to have been taken by misconception of fact. He has submitted that the prosecutrix was already married with Sudhir @ Neeraj and without taking divorce from her husband, she again married Opin r/o village Bhaira Bakipur. He also submits that once the prosecutrix is already married, there was no question of the petitioner having extended any promise of marriage to her. He submits that the petitioner has no criminal antecedents and the investigation is already complete and thus, he deserves to be granted bail.

On the other hand, learned State counsel has opposed the submissions made by learned counsel for the petitioner and has submitted that the prosecutrix has levelled specific allegations against the petitioner regarding blackmailing and committing rape with her. However, he submits that the prosecutrix and the petitioner both are of the age of the majority. On the instructions provided to him, the learned State counsel does not dispute that the prosecutrix is already married. He has submitted that the investigation is already complete and the allegations for the offence under the Information Technology Act were not substantiated. He further submits that as per the information provided to him, the petitioner has no criminal antecedents.

Heard.

Evidently, the petitioner and the prosecutrix both are of the age of the majority and the prosecutrix is already married. The allegations regarding blackmailing the prosecutrix on the basis of alleged videos and obscene photographs, are not established during the investigation as the challan has been presented for the offences under IPC only. There is nothing on record showing that the petitioner has any criminal antecedents. The

veracity of the allegations would be evaluated by the trial Court only after appreciation of the complete evidence to be led by both the parties. 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.

24.11.2022		(RAJESH BHARDWAJ)
sharmila		JUDGE
	Whether Speaking/Reasoned :	Yes/No
	Whether Reportable :	Yes/No