

**IN THE HIGH COURT OF PUNJAB & HARYANA  
AT CHANDIGARH**

(Sr. No. 204)

**CRM-M No. 53722 of 2022**

**Date of decision : 24.11.2022**

**Sahil @ Munne**

.....Petitioner

*Versus*

**State of Haryana**

.....Respondent

**CORAM : HON'BLE MR. JUSTICE DEEPAK SIBAL**

Present : Mr. Ojas Bansal, Advocate for the petitioner.

Mr. Tapan Kumar Yadav, DAG, Haryana.

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**DEEPAK SIBAL, J. (Oral)**

The present petition has been filed under Section 439 Cr.P.C. for the grant of regular bail in FIR No.84 dated 04.04.2022 registered under Sections 376(2)(n)/506 IPC and Section 67-A of the I.T. Act at Police Station Women West Gurugram, district Gurugram.

The petitioner is being prosecuted for having raped the prosecutrix after making a video of her and then blackmailing her on the basis thereof.

Learned counsel for the petitioner submits that the petitioner has been falsely implicated in this case; the petitioner has no other criminal antecedents; there is an unexplained delay of 02 months in lodging of the FIR; there is no medical evidence to support the prosecution case; there is also no forensic evidence on record; the alleged video which is referred to in the FIR has not seen the light of the day; the petitioner is in custody since

08.04.2022; all the material prosecution witnesses in the petitioner's trial stand examined; the prosecutrix while appearing before the Trial Court as PW-2 has specifically stated that she and the petitioner, who both are adults, were in a consensual relationship and that since 09 prosecution witnesses still remain to be examined in the petitioner's trial the same will take a long time to conclude.

Learned State counsel opposes the grant of bail to the petitioner on the ground that he raped the prosecutrix and that in spite of the fact that the prosecutrix has turned hostile, there is enough evidence on record to convict the petitioner.

The petitioner who is 22 years old does not have any other criminal antecedents; there is an unexplained delay of 02 months in lodging of the FIR; there is no medical or forensic evidence to support the prosecution case; the alleged video which is referred to in the FIR has not seen the light of the day; the petitioner is in custody since 08.04.2022; all the material prosecution witnesses in the petitioner's trial stand examined; the prosecutrix while appearing before the Trial Court as PW-2 has specifically stated that she and the petitioner, who both are adults, were in a consensual relationship and that since 09 prosecution witnesses still remain to be examined in the petitioner's trial, the same is likely to take a long time to conclude.

Keeping in view the totality of the above facts, the present case is considered to be a fit one in which the petitioner be directed to be released on regular bail. Resultantly, subject to the satisfaction of the

CJM/Duty Magistrate, Gurugram, the petitioner is directed to be released on bail.

It is clarified that the above observations have been made only for the limited purpose of deciding the present regular bail application and the same would not be construed to be an expression of opinion on the merits of the case.

In the FIR in question as also in her statement recorded under Section 164 Cr.P.C. the prosecutrix has raised specific allegations of rape against the petitioner whereas while appearing before the Trial Court as PW-2, she has stated that she and the petitioner were in a consensual relationship and that he never raped her.

In the light of the afore circumstances the State shall consider prosecuting the prosecutrix for having lodged a false FIR, in accordance with law.

**24.11.2022***sunil yadav***( DEEPAK SIBAL )  
JUDGE**

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No