

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-3905-2023 (O&M)
Date of Decision : 17.07.2023

Pardeep Kumar

....Petitioner

VERSUS

State of Haryana

....Respondent

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Ms. Sharmila Sharma, Advocate for the petitioner.

Ms. Mayri Lakhanpal Kalia, AAG Haryana.

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ALKA SARIN, J. (Oral)

1. This is the first petition filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the petitioner in FIR No.422 dated 15.12.2021 registered under Sections 363, 366 of the Indian Penal Code, 1860 (Section 376 IPC added later on) at Police Station Uchana, District Jind.

2. Learned counsel for the petitioner would contend that the prosecutrix in the present case is a married woman with two children, who had left on her own accord with the petitioner herein. They stayed together at Shimla for about two months and thereafter she returned to her matrimonial home. Learned counsel for the petitioner has further contended that the petitioner was beaten by the brother and father of the prosecutrix and was left in an unconscious condition near the cremation ground qua which FIR

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No.69 dated 05.03.2022 was also lodged and the father and brother of the prosecutrix were arrested. Thereafter, when they were released on bail, the statement of the prosecutrix was recorded and Section 376 IPC has been added. Learned counsel would also refer to the affidavit dated 03.02.2022 (Annexure P/3) of the prosecutrix wherein she stated that she had gone on her own free will with the petitioner herein. It is further the contention that on the basis of the said affidavit, cancellation report was also prepared.

3. Per contra, learned counsel for the State has opposed the grant of bail to the petitioner on the ground that the allegations are of a serious nature. Learned State counsel, however, is not in a position to deny that earlier an affidavit was filed by the prosecutrix on the basis of which cancellation report was also prepared. Learned State counsel is also not in a position to deny the fact that the prosecutrix is a married woman with two children and that initially she had approached this Court by filing a petition bearing No.CRWP-11970-2021 along with the present petitioner for protection of their lives and liberty.

4. I have heard learned counsel for the parties.

5. In the present case the petitioner has been in custody for a period of 08 months and 25 days. The petitioner and the prosecutrix had earlier approached this Court by filing a petition bearing No.CRWP-11970-2021 for protection of their lives and liberty. Also the statement of the prosecutrix since stands recorded. No purpose would be served by keeping the petitioner in incarceration as the trial is likely to take some time to conclude.

6. Keeping in view the totality of the circumstances and without commenting upon the merits of the case, I deem this to being a fit case to grant the concession of regular bail to the petitioner. The petitioner is directed to be released on bail subject to his furnishing bail bonds and surety bonds to the satisfaction of the Trial Court/Additional Sessions Judge (Duty) concerned.

7. However, the Prosecution will always be at liberty to apply for cancellation of bail in case the petitioner is found to be misusing the concession of bail in any manner.

8. It is also made clear that any observation made herein shall not be treated as an expression of opinion on the merits of the case. Pending applications, if any, also stand disposed off.

July 17, 2023
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(ALKA SARIN)
JUDGE

NOTE : Whether speaking/non-speaking : Speaking
Whether reportable : YES/NO