

**209 IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH****CRM-M-4771-2023****Date of decision : 16.05.2023****Mander Singh****.....Petitioner****versus****State of Punjab****..... Respondent****CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ****\*\*\***

Present :- Mr. Ishan Gupta, Advocate  
for the petitioner.

Mr. Sandeep Kumar, DAG, Punjab assisted by  
ASI Baltej Singh.

**\*\*\*****RAJESH BHARDWAJ, J. (Oral)**

Petitioner has approached this Court by way of this present second petition praying for grant of regular bail in case FIR No.54 dated 23.07.2022, under Section 376 of IPC, registered at Police Station Bajakhana, District Faridkot.

As per the facts of the case, statement of the prosecutrix (name concealed) was recorded wherein it was alleged that her marriage was solemnized with Kulwant Singh about seven months ago. Her husband and in-laws were sowing rice crops. She being in a family way used to reside at home. Her husband used to carry the food for the family members to the fields. On 20.07.2022 at about 08:00 AM, Mander Singh (petitioner) who was also planting rice crops with her family members came to her house to take meals for other family members, she was alone in the house and taking benefit of the same, Mander Singh son of Jeet Singh (petitioner) forcibly made physical relations with her and threatened her to defame in case she disclosed the same to anyone.

Thereafter, on asking of her husband Kulwant Singh, she narrated the whole incident to him. Request was made to take legal action against the accused. On the basis of the statement, formal FIR was registered and investigation commenced. Challan was presented and charges were also framed by the trial Court. Petitioner was arrested on 25.07.2022. He approached the Court of learned Additional Sessions Judge, Faridkot praying for grant of bail. However, after hearing both the sides, learned Additional Sessions Judge, declined the same vide his order dated 18.10.2022. Petitioner thereafter, on the earlier occasion approached this Court by way of filing CRM-M-52281-2022 which was allowed to be dismissed as withdrawn vide order dated 17.11.2022. Hence the petitioner has again approached this Court by way of this second petition praying for grant of regular 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 majority and thus, the allegations made by the prosecutrix in this case do not constitute any offence under Section 376 IPC. He submits that the alleged occurrence had taken place on 20.07.2022 whereas, the FIR has been registered three days thereafter i.e. on 23.07.2022. He submits that as per the allegations the alleged occurrence had taken place in the day time in the thickly populated village and there is nothing on record to show that the petitioner has ever made any coercion on the prosecutrix. He submits that there are bald allegations made by the prosecutrix in the FIR and there is no medical report produced by the prosecutrix for the corroboration of her ocular version. He submits that in the facts and circumstances, no offence

under Section 376 IPC is made out. He submits that petitioner has no criminal antecedents and thus, in the facts and circumstances, petitioner deserves to be granted bail.

Learned State counsel, on the other hand, on instructions from ASI Baltej Singh, has submitted that there are specific allegations made by the prosecutrix against the petitioner. He submits that as the petitioner had threatened the prosecutrix to be defamed in the society in case she disclosed the incident to anyone after three days. She disclosed about the incident to her husband and thus, delay alleged is meaningless in the eyes of law. He submits that the prosecutrix was medically examined, however, the report is awaited. He submits that the prosecutrix unfortunately is no more as she died during delivery.

This Court directed the State to file status report disclosing the cause of death of the prosecutrix and in response to the same, learned counsel for the State has filed the status report which disclosed that the prosecutrix died during treatment and thus, there was no foul play in her death. He submits that the challan is presented and out of 13 prosecution witnesses, no one is examined as on date.

Heard. Evidently, the petitioner is behind bars since 25.07.2022. As submitted before this Court, the prosecutrix had already died before she could be examined by the trial Court. The challan is already presented. Evidently, both the petitioner and the prosecutrix were of the age of majority.

The veracity of the allegations would be assessed only after conclusion of the trial and on the appreciation of evidence to be led by both the parties before the trial Court. This Court would refrain itself from

commenting anything on the merits of the case. Keeping in view the arguments raised by both the sides and perusing the record, this Court is of the opinion that learned counsel for the petitioner succeeds in making out a case for grant of regular bail. Accordingly, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail/surety bonds 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.

16.05.2023  
*m. sharma*

( RAJESH BHARDWAJ )  
JUDGE

|                           |   |        |
|---------------------------|---|--------|
| Whether speaking/reasoned | : | Yes/No |
| Whether reportable        | : | Yes/No |