

**IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH**

279

CRM-M-11625-2023 (O&M)

Date of decision: 14.12.2023

Anil Thakur**...Petitioner****Versus****State of Haryana****...Respondent****CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA**

Present:- Mr. Vipul Aggarwal, Advocate
For the petitioner.

Mr. Neeraj Poswal, AAG, Haryana.

MANISHA BATRA, J. (Oral)

1. This petition has been filed by the petitioner under Section 439 Cr.P.C. seeking regular bail in case bearing FIR No. 152 dated 03.05.2022, registered under Sections 376-D, 307, 506, 324, 34 of the IPC (Sections 328, 201 of IPC added later on) at Police Station DLF Phase-3rd, District Gurugram.

2. Brief facts of the case relevant for the purpose of disposal of this petition are that the aforementioned FIR was registered on the basis of the statement recorded by complainant 'M' (*name withheld*) on 03.05.2022 alleging therein that victim 'A' (*name withheld*), who is his wife, had called him on 02.05.2022 at about 08:45 P.M. when he was on his auto rickshaw and had informed him that she had been stabbed with a knife. On receipt of this information, he had rushed towards his house. His wife has also reached home by that time and told him about her being raped by two persons and then being stabbed with a knife. As the victim was admitted in the hospital, therefore, opinion of the doctor had been taken. She was declared unfit to make

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statement. Her statement was recorded subsequently. Her statement under Section 164 Cr.P.C. was also recorded. She disclosed that she was known to petitioner for the last one year. They had exchanged their phone numbers and she had been talking to him for providing some work/job. On the fateful day, he had asked her to come to village Nathupur on the pretext of providing her some work. On her reaching there, he had taken her to a room on the second floor of a house and she was given some juice, after consuming which, she had become unconscious. Thereafter, the petitioner and co-accused Majibul Haq had committed rape upon her. Majibul Haq had also stabbed her with a knife thereby causing injuries in her abdomen. The petitioner was arrested on 03.05.2022 but co-accused Majibul Haq could not be arrested. After completion of necessary investigation and usual formalities, challan was presented in the Court and presently the petitioner is facing trial for commission of aforesaid offences. The petitioner had moved an application for grant of regular bail before the trial Court but the same was dismissed, vide order dated 13.01.2023.

3. The present petition has been filed on the ground and it has been argued by learned counsel for the petitioner that he has been falsely implicated in this case. He is in custody since 03.05.2022. His custodial interrogation is no more required. The trial is to take some time. No useful purpose would be served by keeping him in custody anymore. The version of the victim is improbable and unnatural. The subject offences are not made out against the petitioner. Hence, it is urged that the present petition deserves to be allowed.

4. *Per contra*, learned State counsel has resisted the petition in terms of the status report. Learned State counsel has argued that there are serious allegations against the petitioner. He had been named by the victim at

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the first instance and had also been identified by her in test identification parade. The DNA profiling of the seminal stains as lifted from the clothing of the victim had matched with the DNA profiling of the petitioner, as per report received from FSL, Madhuban. In her sworn deposition, the victim had corroborated the version as given by her before the police as well as the Magistrate and had duly identified the petitioner as one of her ravishers. With these broad submissions, it is argued that the present petition is liable to be dismissed.

5. The petitioner along with co-accused (who has not yet been arrested) is alleged to have ravished the prosecutrix on 02.05.2023. Though the injuries, which have been sustained by the victim in her abdomen on account of stabbing, have not been attributed to the petitioner as per deposition made by her, however, there are still grave and serious allegations against him. The trial has commenced and there is nothing on record to show that there would be any undue delay in conclusion of the same. Keeping in view the gravity of offences alleged to have been committed by the petitioner, the quantum of sentence which the conviction may entail and the attendant facts and circumstances, this Court is of the considered view that the petitioner does not deserve to be given concession of regular bail. Hence, the petition stands dismissed.

14.12.2023

Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No