

218

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-15073-2022 (O&M)
Date of Decision:- 06.01.2023

ASHOK KUMAR

....Petitioner

Vs.

STATE OF HARYANA

...Respondent

CORAM:-HON'BLE MRS. JUSTICE AMARJOT BHATTI

Present:- Mr.Naresh Kumar Chhokar, Advocate for the petitioner.
Ms. Deepshikha Chauhan, Asstt. AG, Haryana.

AMARJOT BHATTI, J. (Oral)

The petitioner – Ashok Kumar has filed the instant petition under Section 439 Cr.P.C. for grant of regular bail in FIR No.11, dated 05.02.2016 under Sections 323, 328, 376, 506, 420 and 120-B of IPC registered at Police Station Raipur Rani, District Panchkula.

As per the facts of the case, the complainant gave her statement to the police that she came across Ashok Kumar accused in *satsang* and acupressure camp who introduced the complainant and her family with his son Sandeep and daughter Santosh Kumari accused No.2 and 3 respectively. Thereafter the marriage of the complainant was fixed with Sandeep whereas the marriage of her brother Sunil Sachdeva was fixed with Santosh Kumari. She got married with Sandeep on 09.02.2013 and the marriage of her brother took place on 18.01.2013. After marriage she came to know that accused Nos.2 and 3 were not children of accused No.1 Ashok Kumar. She was told that they were adopted children of accused No.1 but there was no such document. The dispute started in the family.

She was beaten up and confined in a room. The accused No.1 Ashok Kumar and Sandeep Kumar maintained forcible physical relations with her. They maintained physical relations by administering her intoxicant material. Ultimately she disclosed this fact to her mother and she came to her parental house. The family of the complainant tried to talk to the accused person but they threatened her with one objectable video and photographs. During this period she also gave birth to a son but she is not aware about the paternity of the said child. With these allegations the present case has been registered.

Counsel for the petitioner argued that all the allegations levelled against Ashok Kumar are false. Initially he was granted interim anticipatory bail and he had joined the investigation. The copy of order dated 07.04.2016 in CRM-M-10865-2016 is Annexure P-2. Later-on that application was dismissed. The other accused Sandeep Kumar Dutta and Santosh Kumari were challaned and they were acquitted by the trial court vide judgment dated 30.11.2016 which is Annexure P-3. He was later-on arrested in this on 21.02.2022 and his regular application has been declined by Additional Sessions Judge Panchkula vide order dated 11.03.2022, copy of the order is Annexure P-4. It is argued that the version put forward by the victim/complainant was not believed and the other accused were acquitted by the trial Court. At present the statement of the complainant has been recorded who has already gone abroad. He is ready to abide by the terms of the bail order. Therefore, his regular bail application may be allowed.

The bail application is opposed by the learned counsel representing the State. It is argued that earlier he was declared proclaimed

offender and his presence has been procured subsequently and now he is facing trial. It is pointed out that the victim has been examined as PW1 and she has fully supported the prosecution version and has levelled specific allegations of rape against the present petitioner by giving her some intoxicant. Considering the nature of allegations and its gravity the petitioner is not entitled to be released on bail.

I have considered the arguments advanced before me and have gone through the record carefully. It is a matter of record that Ashok Kumar is facing trial in the aforesaid FIR in which he has been chargesheeted under Section 376, 323, 328.... of IPC. The statement of victim has been recorded through video conferencing as PW-1 and copy of said statement recorded by the trial court dated 12.10.2022 is also placed on record. In the said statement the victim has supported the prosecution version. It is a matter of record that the other two accused Sandeep Dutta and Santosh Kumari were acquitted by the trial Court vide judgment dated 30.11.2016. The findings in the said judgment is not applicable to the present petitioner. His case will be decided on merits as per the evidence led by the prosecution as well as the defence raised by him. So far as the allegations are concerned the same are specific and serious in nature.

The conduct of present petitioner cannot be ignored. Ashok Kumar was declared proclaimed offender and the FIR No.43 dated 20.02.2022 under Section 174-A of IPC Police Station Raipur Rani Panchkula was registered against him in which he has been found guilty and convicted. Downloaded copy of judgment dated 04.04.2022 in the aforesaid FIR No.43 dated 22.02.2022 is also placed on record. The conduct of the petitioner clearly indicates that he evaded the process of

Court for years together and ultimately he was arrested on 21.02.2022 and now he is facing the trial. There is every chance that the petitioner may again abscond if once released on bail, therefore, considering the aforesaid facts in my opinion the petitioner is not entitled to be released on bail and his regular bail application is accordingly, declined. However the trial court is directed to expedite the trial in this case.

The petition is, accordingly, disposed of.

06.01.2023

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(AMARJOT BHATTI)
JUDGE

Whether speaking/reasoned: Yes/No.

Whether reportable: Yes/No