

**214 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****CRM-M-15207-2023****Date of decision : 30.05.2023****Lakhvir Singh @ Sonu****.....Petitioner****versus****State of Haryana****..... Respondent****CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ***********Present :- Mr. Siddarth, Advocate
for the petitioner.****Mr. B.S. Virk, Senior DAG, Haryana.***********RAJESH BHARDWAJ, J. (Oral)**

This is the second petition for grant of regular bail to the petitioner in case FIR No.204 dated 13.07.2020, under Sections 376-D, 342, 366, 354, 506 of IPC, registered at Police Station Ellenabad, District Sirsa.

Adumbrated facts of the case are that the complaint was lodged by the prosecutrix wherein it was alleged that she was 20 years of age and does household work. About a year back, Sonu (petitioner) came to his mama's house and they met each other. Both of them fell in love with each other and decided to marry. On 10.07.2020, Sonu told her that they would run away from the home and would perform marriage in the morning in the Court. At about 12:00 in the night, Sonu and Sukhpal came to her house on motorcycle and by alluring her, took her on motorcycle to a tubewell room in the field where Sonu did wrong act with her whereas, Sukhpal guarded the place while standing outside. Thereafter, Sonu told her that he had enjoyed with her and would not

perform marriage with her and she was threatened to be killed in case she disclosed anything about the same. On the basis of the complaint, formal FIR was lodged and investigation commenced. On 14.07.2020, statement of the prosecutrix was recorded under Section 164 Cr.P.C. by learned Magistrate wherein she reiterated her allegations made in the FIR that she was in relationship with the petitioner and they decided to marry and thereafter she went with the petitioner but after having the physical relations, petitioner threatened her and refused to marry her. During the investigation, petitioner was arrested on 14.07.2020. He approached the Court of learned Additional Sessions Judge, Fast Track Special Court, Sirsa praying for grant of bail. However, after hearing counsel for both the sides, learned Additional Sessions Judge, Fast Track Special Court declined the same vide order dated 20.11.2020. Aggrieved by the same, petitioner approached this Court on earlier occasion by way of filing CRM-M-2886-2021 which was allowed to be withdrawn vide order dated 22.02.2022 and hence, the petitioner approached this Court again by way of this second present petition.

Learned counsel for the petitioner has vehemently contended that the petitioner has been falsely implicated in this case. He has submitted that from the case of the prosecution, it is apparent that both the accused and the prosecutrix are of the age of majority. He has submitted that the prosecutrix herself has admitted that she fell in love with petitioner-Sonu and they decided to marry. He has submitted that once the prosecutrix herself is major and had fallen in love with the petitioner, offence under Section 376 IPC would not be attracted as the relationship between the prosecutrix and petitioner was consensual one.

He further submits that after completion of investigation, learned trial Court has commenced with the examination of the prosecution witnesses and thus, prosecutrix already stands examined. He submits that the prosecutrix has supported the case of the prosecution, however, as the material witnesses already stand examined, petitioner is not in a position to tamper with the prosecution evidence. He submits that the co-accused Sukhpal Singh has already been granted regular bail vide order dated 09.03.2023 passed in CRM-M-49119-2022 by this Court. He submits that in the facts and circumstances of the case, petitioner deserves to be granted regular bail.

Learned State counsel, on the other hand, has opposed the submissions made by counsel for the petitioner. He has submitted that there are specific allegations against the petitioner made by the prosecutrix. It is further the case of prosecution that the petitioner committed sexual intercourse with prosecutrix by giving her promise of marriage. He further submits that out of 17 prosecution witnesses, 07 witnesses already stand examined including the prosecutrix. He has further submitted that as per instructions petitioner is not involved in any other case.

I have heard counsel for the parties and perused the record. Evidently, both the accused and the prosecutrix are of the age of majority. It is the case of prosecution that the prosecutrix and petitioner had fallen in love and decided to marry each other. It is further the case of prosecution that the petitioner committed sexual intercourse with prosecutrix by giving her promise of marriage. Petitioner is behind bars since 14.07.2020 i.e. about 03 years. Whether in the facts and

circumstances, offence under section 376-D IPC is attracted or not would lie in the domain of the trial Court to be assessed on appreciation of the evidences to be led before it. Out of 17 prosecutrix witnesses, 07 witnesses including the prosecutrix already stand examined and thus, the petitioner is not in a position to tamper with the evidence of the prosecution.

The veracity of the allegations would be assessed only after the 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. The trial of the case will take sufficiently long time. 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.

30.05.2023
m. sharma

(**RAJESH BHARDWAJ**)
JUDGE

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