

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

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**CRM-M No. 19068 of 2023 (O & M)
Date of Decision : 25.4.2023**

*Hukam Singh**..... Petitioner**versus**State of Haryana**..... Respondent*

CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA

Present: Mr. Aditya Sanghi, Advocate, for the petitioner

Ms. Ankita Ahuja, AAG, Haryana

TRIBHUVAN DAHIYA J. (ORAL):

CRM No. 17059 of 2023:

Allowed as prayed for.

CRM-M No. 19068 of 2023:

This is a petition under Section 439 Cr.P.C. seeking regular bail to the petitioner in case FIR No.30 dated 26.5.2020 under Sections 506 and 376 (2)(n) IPC registered at Police Station Women, Rewari, District Rewari.

2. Briefly, allegations in the FIR are, the complainant, aged thirty years, stated that her husband works in Bengaluru. She lives alone with two children. About one and a half years back, she had taken loan from a Women Group. The petitioner started coming to her house for repayment of the loan. One day while she was alone at home, he forced himself upon her and committed the wrong act. Her nude photographs were also taken, and she was threatened not to disclose it to anybody or else the photographs would be uploaded on the facebook and she and her children would be killed. By threatening her, the petitioner continued doing wrong act with her for about one and a half years. He

started residing with her also. He used to refer her as his wife and would say that the two had performed Court marriage.

3. Learned counsel for the petitioner contends that relations between the petitioner and the complainant were consensual, as is apparent from the facts mentioned in the FIR itself. The allegations have been levelled after one and a half year of the two being in relationship. Admittedly, the petitioner was willingly staying with the complainant in her home and used to refer to her as his wife. It is further submitted that she has been examined before the trial Court, apart from two other witnesses. There is no medical evidence on record, as she refused medical examination, it is recorded in her MLR dated 26.5.2020 (Annexure P-8). The allegations pertaining to her nude photographs etc. are also false as no offence under the Information Technology Act, 2000, has been invoked against the petitioner, nor any photographs have been recovered from him.

4. Learned State counsel, on instructions from ASI Mamta, opposes the grant of bail on the ground that charges have already been framed against the petitioner and three out of eleven prosecution witnesses have also been examined. She further submitted that the petitioner was declared a proclaimed offender, and, therefore, should not be released on bail

5. The submissions of learned counsel for the parties have been considered. The allegations have been levelled by the complainant after staying with the petitioner in her house for one and a half year. There is no medical evidence on record. Whether offence of rape is made out, will be debated during trial. Material prosecution witnesses, including the victim/complainant herself, have already been examined, still the trial will take some time to conclude as eight prosecution witnesses are still to be examined. The petitioner

was declared a proclaimed offender only because he failed to appear before the trial Court as a compromise dated 14.4.2021 (Annexure P-5) was entered into between the parties, and a petition for quashing of the FIR based thereupon was also filed before this Court. His non-appearance, therefore, does not appear to be intentional. In these circumstances, no useful purpose will be served by confining the petitioner to custody any longer.

6. Accordingly, the petition is allowed. The petitioner is ordered to be released on bail to the satisfaction of the trial Court/Duty Magistrate concerned.

(TRIBHUVAN DAHIYA)
JUDGE

25.4.2023
Ashwani

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