

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

220

CRM-M-19826-2023

Date of Decision: 26.05.2023

Anil

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Mr. Rohit Joshi, Advocate for
Mr. Vikas Kumar Gupta, Advocate for the petitioner
Ms. Priyanka Sadar, AAG, Haryana

JAGMOHAN BANSAL, J. (ORAL)

1. The petitioner, through instant petition under Section 439 of Code of Criminal Procedure, 1973 (for short 'Cr.P.C.') is seeking concession of regular bail in FIR No.265 dated 01.06.2022 under Sections 323, 376(2)(n) and 506 of Indian Penal Code, 1860 (for short 'IPC') registered at Police Station Industrial Sector 29, District Panipat.
2. The case of the prosecution is that prosecutrix lodged a complaint alleging that she was married to Sanjay and two children were born from this wedlock. Seven years back, she snapped relations with her husband. Around six years ago, she came in contact with one boy namely Anil who expressed his liking for her and promised to marry her. On the promise of marriage, he made physical relations with her. He clicked her vulnerable videos and started blackmailing her. He started

pressuring her to make physical relations with his father. On 11.05.2022, she attempted to commit suicide.

3. Learned counsel for the petitioner, *inter alia* contends that at the time of alleged offence, the petitioner was just 17 years old and prosecutrix was more than 30 years old lady having two children. She had seduced the petitioner. Being a minor, the petitioner was unable to understand consequences of act and conduct whereas complainant being matured, grown up and a married lady was quite competent to understand consequences as well as pros and cons. The petitioner is in custody since 15.06.2022 and he is not involved in any other offence. The petitioner has been wrongly implicated in the commission of alleged offence. The petitioner is permanent resident of District Panipat. The petitioner has deep roots in the society. There is no possibility of flee from justice.

4. Custody certificate dated 25.05.2023 is taken on record. As per custody certificate, the petitioner is in custody since 15.06.2022 and he is not involved in any other offence.

5. Learned State Counsel submits that police report has already been filed and charges stand framed. She further submits that out of 14 witnesses, 11 witnesses have been examined. The petitioner is involved in the commission of grave offence, thus, no leniency is warranted and release of petitioner would hamper the trial.

6. The petitioner is in custody since 15.06.2022 and he is not involved in any other offence. Police report under Section 173 of Cr.P.C. stands filed and charges stand framed. The petitioner at the time of alleged offence was 17 years old whereas prosecutrix was more than 30 years old married lady having two children. The Trial Court yet has to return definite findings on the disputed issues. The material witness i.e. prosecutrix stands examined, thus, there is no possibility of winning over or pressurizing her. As prosecution has right to arrest, investigate the matter and restrain an accused from manipulating or winning over witnesses, similarly accused in view of Article 21 of the Constitution of India has right to defend himself and put forth his stand which cannot be possible while in custody. The prosecution has not led any convincing/plausible documentary or oral evidence indicating possibility of petitioner being flee from justice or tampering the evidences or winning over/threatening the witnesses.

7. In view of afore-stated facts and circumstances, this Court is of the considered opinion that present petition deserves to be allowed and accordingly allowed. The petitioner is ordered to be released on bail subject to conditions as may be imposed by Trial Court/Illaq/Duty Magistrate concerned.

8. If the petitioner or his family members/associates make any attempt to threat/intimidate the witnesses in the present case, the State

would be at liberty to move an application for cancellation of bail granted by this order.

9. Nothing observed hereinabove shall be construed as expression of opinion of this Court on merits of the case and Trial Court shall proceed without being prejudiced by observations of this Court.

(JAGMOHAN BANSAL)
JUDGE

26.05.2023
Mohit Kumar

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>