

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-25783-2023
Date of decision:- 12.09.2023

Tulsi Ram @ Ajay... Petitioner

Versus

State of Haryana.. Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr.Abhinav Sood, Advocate for
Mr.Ashish Jhamb, Advocate
for the petitioner.

Mr.R.S. Chauhan, AAG, Haryana.

SUVIR SEHGAL, J. (ORAL)

1. This is the second petition filed under Section 439 Cr.P.C. seeking grant of post-arrest bail in:-

FIR No.	Dated	Police Station	Sections
255	13.08.2020	Saran, Faridabad	346, 376D IPC

2. Case of the prosecution is that FIR, Annexure P1, has been registered by the husband of the prosecutrix alleging that on 13.08.2020 when he was on duty, he received a telephonic message that his wife had left the matrimonial home of her own free will without intimating anybody and had taken cash of Rs.5,000/- and jewellery with her.

3. Counsel for the petitioner submits that prosecutrix left her matrimonial home of her own volition as her relationship with her husband

was estranged. He submits that the petitioner was a neighbour of the prosecutrix and on 13.8.2020, the prosecutrix called and asked him to take her from her house. Reference has been made by counsel upon the cross-examination of the prosecutrix to support this assertion. Counsel submits that after the withdrawal of the first petition in August, 2022, Medical Officer, has been examined as PW9 and in her deposition, recorded on 15.12.2022, she has admitted that no external injury was found on the prosecutrix. Counsel submits that the petitioner has been falsely implicated by the prosecutrix's husband after it was discovered that she had stayed with him for a few days in a rented accommodation at Delhi. He asserts that as the material prosecution witnesses have been examined, petitioner deserves to be enlarged on bail.

4. Opposing the petition, learned State counsel upon instructions from Inspector Rajesh Kumar submits that the prosecutrix has supported the allegations in her statement recorded under Section 164 Cr.P.C., Annexure P3 as well as in her testimony, Annexure P6. He submits that considering the nature of allegations levelled against the petitioner, which are grave, he does not deserve to be released on bail.

5. I have heard counsel for the parties and considered their respective submissions.

6. The role of the petitioner, the question as to whether the prosecutrix was sexually abused and as to whether she left her matrimonial home voluntarily would be answered by the trial Court on the basis of the evidence adduced before it. Noticing that the vital prosecution witnesses have been examined, trial is likely to take time to conclude and the petitioner

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is languishing in custody for the last more that 30 months, this Court is *prima facie* of the view that he deserves to be released on bail.

7. In view of the above, without advertng to the merits or demerits of the arguments addressed by counsel for the parties, petition is allowed. Petitioner is ordered to be released on bail on furnishing adequate bail/surety bonds to the satisfaction of the Trial Court/Duty Magistrate, concerned.
8. It is clarified that nothing said hereinabove shall be construed to be an expression of opinion on the merits of the case.

(SUVIR SEHGAL)
JUDGE

12.09.2023
Brij

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No