

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

Sr. No.: 208

Criminal Miscellaneous No.M-23218 of 2023 (O&M)

Date of Decision: *May 12, 2023*

Parveen Kumar

..... PETITIONER(S)

VERSUS

State of Haryana

..... RESPONDENT(S)

...

CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA

...

PRESENT: - Mr. Aditya Sanghi, Advocate for the petitioner.

Ms. Ankita Ahuja, AAG, Haryana.

...

Tribhuvan Dahiya, J (Oral)

This is a petition for grant of regular bail to the petitioner in case FIR No.1113 dated 17.11.2022, registered under Sections 376, 506 of IPC, at Police Station Barwala, District Hisar.

2. Briefly, as per allegations in the FIR, lodged on a statement by the prosecutrix, who is a married woman, aged about twenty five years, having two children, she is living along with her family in a rented accommodation. Her husband is running a general store in a street at Barwala. On 13.09.2022, he had gone to Delhi for getting some goods, and was to return three-four days thereafter. On 15.09.2022, her husband's maternal aunt's son/petitioner herein came to her house and made forcible physical relations with her in the absence of her husband. She was threatened not to disclose it to anyone or else he would kill her as well as her family. Out of fear, she kept mum. On gaining courage, she later disclosed all this to her husband, leading to lodging of the FIR in question.

3. Learned counsel for the petitioner contends that the petitioner is victim's husband's cousin, aged about twenty three years. The victim is also an adult, and a married woman. The FIR in question has been lodged after delay of about over two months. He further contends that there is no medical evidence on record to establish the offences alleged. As per the MLR,

Annexure P-6, the doctor's opinion is only to the effect that 'possibilities of assault cannot be ruled out', and there is no sign of any external injury. Even vaginal swabs of the prosecutrix were not taken. At best, only offence under Section 354 IPC will be attracted against the petitioner. In fact, this is a case of false implication only to extract money. Investigation of the case is over and the petitioner is still in custody.

4. Learned State counsel, on instructions from ASI Babita, opposes the grant of bail on the ground that there are specific allegations against the petitioner, and there is no motive for the complainant to falsely implicate the petitioner. Charges have already been framed against the petitioner, and the prosecution witnesses, twelve in number, will soon be examined. The petitioner is in custody since 19.12.2022 and no other case is pending against him.

5. The submissions made by learned counsel for the parties have been considered.

6. The victim is a married lady. The FIR was lodged after a delay of over two months from the date of the occurrence. The petitioner is a young boy having no criminal antecedents. He is a relative of the victim's husband. Investigation of the case is already over and nothing is to be recovered from him. Trial of the case will take some time to conclude as the prosecution witnesses are still to be examined. No useful purpose will be served by keeping the petitioner confined to custody during trial.

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

(Tribhuvan Dahiya)
Judge

May 12, 2023
Payal