

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

103+218

CRM-M-25408-2022 (O&M)

Date of Decision: 24.04.2023

Pardeep Rohila

...Petitioner

Versus

State of Haryana

...Respondent

**CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL**

Present:- Mr. Sushil Sheoran, Advocate for the petitioner

Ms. Dimple Jain, AAG, Haryana

\*\*\*

**JAGMOHAN BANSAL, J. (ORAL)**

**CRM-17922-2023**

Application for placing on record Annexure P-4 is allowed.

The same is taken on record subject to just exceptions. Registry is directed to tag at appropriate place.

CRM stands disposed of.

**CRM-M-25408-2022**

1. The petitioner through instant petition under Section 439 Code of Criminal Procedure, 1973 (for short 'Cr.P.C.') is seeking regular bail in FIR No.36 dated 26.03.2022 under Sections 354A, 376, 511 & 506 of Indian Penal Code, 1860 (for short 'IPC') registered at Police Station Women Rohtak, District Rohtak.

2. The case of the prosecution is that on 26.03.2022, prosecutrix lodged a complaint alleging that she was residing with her

mother and Pardeep-petitioner was known to her mother. He used to come to their house 2-3 times in a week. On 25.03.2022 at about 11:45 PM, accused attempted to commit rape upon her and extended threat to her. She saved herself with great difficulty. On the basis of complaint, FIR under Sections 376, 511 and 506 of IPC was registered.

3. Learned counsel for the petitioner, *inter alia* contends that petitioner is in custody since 29.03.2022 and he is not involved in any crime. The prosecutrix has already been examined and she has turned hostile. The petitioner has been wrongly implicated in the commission of alleged offence. The petitioner is permanent resident of District Rohtak. The petitioner has deep roots in the society. There is no possibility of flee from justice.

4. Reply by way of affidavit dated 24.04.2023 of Medha Bhushan, I.P.S., Additional Superintendent of Police, Sampla-cum-HQ, Rohtak filed on behalf of respondent-State is taken on record. Registry is directed to tag the same at appropriate place.

5. Custody certificate dated 21.02.2023 is taken on record. As per custody certificate, petitioner is in custody since 29.03.2022 and he is not involved in any other case.

6. Learned State Counsel submits that police report has already been filed and charges stand framed. She further submits that out of 13 witnesses, only prosecutrix has 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.

7. In the case in hand, the petitioner is in custody since 29.03.2022 and he is not involved in any other crime. The prosecutrix stands examined and she has turned hostile. There is allegation of attempt to commit rape. The Trial Court yet has to return definite findings on the disputed issues. There are 13 prosecution witnesses and till date only prosecutrix has been examined, thus, there is abysmally low possibility of conclusion of trial in near future. 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.

8. 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.

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

24.04.2023  
Mohit Kumar

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