

Date of decision: 06.11.2023

...PETITIONER

...RESPONDENT

Present: Mr. Aman Pal, Advocate for the petitioner.
Mr. Gagandeep Singh Chhina, AAG, Haryana.
Mr. Ashit Malik, Advocate for the complainant.

1. Custody certificate of the petitioner has been placed on record.
2. Shubham @ Sachin-petitioner is seeking regular bail in the case bearing FIR No.629 dated 09.09.2022 under Sections 328/376(2)(n)/506 IPC and Section 67(A) of IT Act, registered at Police Station Panipat City.
3. Learned counsel for the petitioner contends that the prosecutrix is aged about 19 years. The relationship between the petitioner and the prosecutrix was consensual. The first incident of alleged rape took place on October, 2021. Thereafter, the incidents are reported to have taken place in June, 2022 and August, 2022. The last incident is stated to have taken place on 24.08.2022 and the FIR has been registered after a delay of 15 days thereafter. The statement of the prosecutrix during the course of trial has been recorded. She has also admitted the correctness of the photographs Annexure P-4 which indicate that the petitioner and the prosecutrix were in relationship. The petitioner is in custody for a period of 01 year, 01 month and 20 days and not involved in any other case.
4. Learned State counsel and counsel for the complainant have opposed the bail application on the score that the petitioner had prepared obscene video of prosecutrix and had been exploiting her by threatening to circulate the

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same on social media. The obscene video has also been recovered during the course of investigation. Out of 23, 07 witnesses have been examined.

5. It is significant to note that the prosecutrix is aged more than 18 years. The first incident of alleged rape took place on October, 2021. The matter has been reported after a delay of about 11 months thereafter. Although, there are allegations to the effect that the petitioner had been threatening the prosecutrix on the pretext that he had been prepared an obscene video and sexually exploiting her even after but the petitioner has sought to putforth a case to the fact that the relationship between the petitioner and the prosecutrix was consensual. It will be a debatable and moot point during the course of trial as to whether the prosecutrix was a consenting party or not. The statement of the prosecutrix during the course of trial has been recorded and as such, it cannot be said that the petitioner can in any manner win over or influence the prosecutrix. Still 16 witnesses remain to be examined. The petitioner is in custody for a period of 01 year, 01 month and 20 days and not involved in any other case. The conclusion of trial is likely to take sometime. No fruitful purpose will be served by detaining the petitioner in further custody. As such, sufficient mitigating circumstances are made out to extend the concession of bail to the petitioner.

6. Without expressing any opinion on the merits of the case, the instant petition is allowed. The petitioner is ordered to be released on bail on his furnishing requisite bail bonds to the satisfaction of the learned trial Court/Duty Magistrate concerned.

7. The petition is allowed accordingly.

06.11.2023

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(VIVEK PURI)
JUDGE