

CRM-M-26716 of 2023

2023:PHHC:137172

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

CRM-M-26716 of 2023

Date of decision: 19.10.2023

Mohammad Arman

.....Petitioner

versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Ms. Savita Devi, Advocate,
for the petitioner.

Mr. P.S. Bajwa, DAG, Punjab.

Mr. Mahender Pal, Advocate,
for the complainant.

NAMIT KUMAR, J.

1. This petition has been filed by the petitioner under Section 439 Cr.P.C. seeking regular bail in case FIR No.327 dated 08.07.2022 under Sections 323, 377 IPC and lateron added Section 498-A IPC, registered at Police Station Zirakpur, District SAS Nagar.

2. Brief facts necessary for the disposal of present petition are that the complainant (name withheld to protect her identity and hereinafter referred to as the prosecutrix), is a housewife and on 04.04.2021 she got married to Mohammad Arman (petitioner) as per Muslim religion. Her father spent more than his capacity at the time of marriage to make her in-laws happy. After the one month of her marriage, petitioner started beating her and used to harass her. She disclosed about the whole incident to her father and family members. With the intervention of the family members and respectables of the society, the matter was resolved and the petitioner

CRM-M-26716 of 2023

2023:PHHC:137172

assured that he will not beat her. After that her husband took her his house at Baltana, where he committed unnatural sex with her. Whenever she denied for the same, the accused used to harass her and give her beatings. Her body was bitten by teeth and there is lot of pain on her back side. On the statement of the complainant, present FIR was registered against the petitioner.

3. Learned counsel for the petitioner contended that petitioner is innocent and has been falsely implicated in the present case as he has not committed the crime as alleged in the FIR. She further contended that before compromise there were no allegations of the offence of unnatural sex and the complainant went to the house of the petitioner only with an intention to trap him in serious offence. She further contended that the allegations against the petitioner are baseless as no date and time of the alleged crime has been mentioned by the complainant. She further contended that present FIR has been got registered with an ulterior motive to grab money from the petitioner. It has further been contended that petitioner is not involved in any other case and that he is in custody since 20.08.2022; investigation in the present case is complete; challan has been presented and conclusion of trial may take a long time, therefore, no useful purpose would be served by detaining the petitioner in jail.

4. *Per contra*, learned State counsel while placing on record the status report, assisted by learned counsel for the complainant, opposed the prayer for grant of regular bail to the petitioner on the ground that allegations levelled against him are serious in nature. He further contended that petitioner gave merciless beatings to the complainant and committed unnatural acts with her.

CRM-M-26716 of 2023

2023:PHHC:137172

5. I have heard learned counsel for the parties and perused the record.

6. Medico-legal examination of the prosecutrix was got conducted, which has confirmed that she was subjected to unnatural sexual torture. MLR of the prosecutrix reads as under: -

“SHE GIVES HISTORY THAT SHE GOT MARRIED ON 04/04/2021 (wrongly mentioned as 40/04/2021) AFTER MARRIAGE HER HUSBAND FORCED HER TO PERFORM ORAL SEX AND ANAL SEX WITH HER AND USE TO BEAT HER AND BITE HER IF SHE REFUSED HE ALSO FORCED HER TO DRINK HIS URINE AND SEMEN. ON 21/12/2021 SHE WAS MEDICAL EXAMINED AT PHC DHAKOLI PB FOR INJURIES SINCE 21/12/2021 SHE IS LIVING WITH HER PARENTS HOUSE.”

7. The Hon’ble Supreme Court in ***Masroor v. State of Uttar Pradesh, JT 2009(8) SC 398*** has held that the valuable right of liberty of an individual and the interest of the society in general has to be balanced. Liberty of a person accused of an offence would depend upon the exigencies of the case. It is possible that in a given situation, the collective interest of the community may outweigh the right of personal liberty of the individual concerned.

8. Keeping in view the gravity and seriousness of allegations supported by medical evidence, as detailed above, petitioner does not deserve the concession of regular bail. Hence the present petition is dismissed.

19.10.2023
R.S.

(NAMIT KUMAR)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No