

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M 29492/2023

Date of decision: 28.07.2023.

Ankit Kumar

.....Petitioner.

Vs.

State of Haryana

.....Respondent

CORAM HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Kunal Dawar, Advocate for the petitioner.

Mr. Brijesh Sharma, AAG Haryana

Nidhi Gupta, J.

Prayer in this petition under Section 439 Cr.PC is for grant of regular bail in case FIR No. 120 dated 20.9.2022 registered under Section 506, 201, 420 IPC and Sections 6 and 8 of POCSO Act, 2012, (Section 25 of the Arms Act deleted in Challan), at PS Women Ballabgarh, Faridabad.

Ld. counsel for the petitioner submits that at the time of alleged incident the victim was 17 year 11 months and a few days old. It is submitted that the last alleged incident of rape is stated to be of 25.11.2021, however, FIR has been lodged only on 20.9.2022 i.e after an inordinate and unexplained delay of 10 months. It is further submitted that even in the FIR there is no allegation of wrong act having been committed by the petitioner, and it is only in her statement under section 164 CRPC, that the prosecutrix has made allegations of rape. Ld. Counsel contends that the FIR has been registered at the instigation of the family of the complainant/prosecutrix as the

petitioner and complainant belong to different castes. It is submitted that it has been admitted by the respondent State in para 12 of their reply that the allegations made by the complainant that petitioner threatened her by showing a pistol were found to be false and accordingly, charges under Section 25/54/59 of the Arms Act have been deleted. It is also submitted that there is no medical evidence against the petitioner, and no mark of injury was found upon the person of the complainant. It is further submitted that petitioner and complainant used to visit hotels together consensually.

Custody certificate dated 27.7.2023 produced by the ld. State counsel is taken on record, as per which petitioner has undergone custody as under trial for 9 months and 22 days.

Ld. State counsel while opposing the prayer submits that charges have been framed, however, evidence is yet to commence. Ld. State counsel further submits that in her statement under Section 164 Cr.PC complainant has supported the case of the prosecution.

After hearing ld. counsel for the parties, without commenting on the merits of the case and keeping in view the fact that prosecution evidence is yet to commence, and the trial will take some time to conclude and no useful purpose will be served by keeping the petitioner behind bars, the present petition is **allowed**. The petitioner is ordered to be released on bail on his furnishing bail/surety bonds to the satisfaction of CJM/Duty Magistrate concerned.

28.07.2023.
Joshi

(Nidhi Gupta)
Judge