

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(207)

CRM-M-30172-2022 (O&M)
Date of decision:- 07.02.2023

Pradeep Saini

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Manish Mehta, Advocate
for the petitioner.

Mr. Harish Nain, Addl. A.G., Haryana for State-respondent.

SUVIR SEHGAL, J. (ORAL)

CRM No.5125 of 2023

Application is allowed as prayed for.

Copy of FIR No.383 dated 17.05.2021, registered at Police Station City Narnaul, District Mahendergarh is taken on record as Annexure P-9.

Main case

This is the second petition filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the petitioner in case FIR No.383 dated 17.05.2021 lodged for offences under Sections 307 and 376, IPC and 25 of the Arms Act, 1959 at Police Station City Narnaul, District Mahendergarh (Annexure P-9).

Counsel for the petitioner contends that FIR (Annexure P-9) has been registered after a young girl (hereinafter referred to as “the prosecutrix”) with a gunshot injury was admitted in an hospital. By

referring to the contents of the FIR he submits that the family members of the prosecutrix who were attending upon her, refused to make any statement and lodge a complaint . He submits that after the statement of the prosecutrix was recorded under Section 161 Cr.P.C., offences under Sections 307 and 376, IPC and Section 25 of the Arms Act were added. Counsel for the petitioner submits that the petitioner has been falsely implicated as the prosecutrix wanted to extort money from the petitioner and save her family members who probably tried to kill her. By referring to her statement recorded under Section 164 Cr.P.C. (Annexure P-3) as well as testimony (Annexure P-6), counsel argues that there are major inconsistencies in the two statements. He submits that all the crucial prosecution witnesses have been examined and the petitioner, who has a clean past deserves to be released on bail. Counsel submits that the earlier petition was withdrawn from this Court on 10.03.2022 and thereafter the prosecutrix has been examined which is a change in the circumstances enabling the petitioner to approach this Court again.

Opposing the petition, State counsel upon instructions submits that the petitioner has been specifically named and accused of sexually exploiting her and caused grievous injury to her with an intention to kill her. As per his instructions, 12 out of 15 witnesses including all the material witnesses have been examined by the prosecution.

Having considered the submissions made by the counsel for the parties, this court prima facie of the view that the complicity of the petitioner in the crime would remain controvertible before the trial Court and the petitioner, who is in detention for the last more than 21 months,

would be entitled to be released on bail as all the material prosecution witnesses have been examined and there is no possibility that the petitioner can influence them.

Accordingly, without advertng to the merits or demerits of the arguments addressed, petition is allowed. Petitioner is ordered to be released on bail on furnishing adequate bail/surety bonds to the satisfaction of the Area Magistrate/Duty Magistrate concerned.

It is clarified that nothing said hereinabove shall be construed to be an expression of opinion on the merits of the case.

(SUVIR SEHGAL)
JUDGE

07.02.2023
Raman

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No