

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

214

CRM-M-30128 of 2022 (O&M)

Date of Decision:12.04.2023

Bunty

....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Madan Sandhu, Advocate, for
Mr. Ajay Shekhawat, Advocate,
for the petitioner.

Ms. Nidhi Garg, AAG, Haryana

JASGURPREET SINGH PURI, J. (Oral)

CRM-11777 of 2023

Vide this application, the applicant-petitioner is seeking permission to place on record the testimony of the prosecutrix dated 20.12.2022 and the report of RFSL dated 15.05.2020 as Annexure P-3 and P-4 respectively.

For the reasons mentioned in the application, the same is allowed and the testimony of the prosecutrix dated 20.12.2022 and the report of RFSL dated 15.05.2020 are taken on record as Annexure P-3 and P-4 respectively subject to all just exceptions.

CRM-M-30128 of 2022

The present is a second petition filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in FIR No.39 dated

04.05.2020, under Sections 323, 201, 376 (2) (N), 379-B, 450 and 506 IPC, registered at Police Station P.S. Women, Jind, District Jind.

It is submitted by learned counsel for the petitioner that the petitioner is in custody from 06.02.2021 which is almost two years and two months. He submitted that in the present case after completion of the investigation, the charges were framed by the learned trial Court and the prosecutrix has already been examined. He submitted that the allegations against the petitioner were that he alongwith some other person, who were standing outside the house, entered the house of the prosecutrix at 2:00 AM and there was an allegation of rape against the petitioner. He submitted that there had been an unexplained delay of one month in lodging of the FIR and as per Annexure P-4 which is a medical report of Regional Forensic Science Laboratory, Haryana Sunaria, Rohtak, no semen was detected. He submitted that there are material discrepancies in the deposition of the prosecutrix. He further submitted that it is a case where the prosecutrix who was earlier married with one other person from whom there was a decree of divorce and thereafter she again remarried from whom she separated and thereafter even as per the deposition made by the prosecutrix, she was in a live-in relationship with a third person namely Amit. He submitted that be that as it may, now the prosecutrix has already been examined and the petitioner has already faced incarceration for more than two years, therefore he may be considered for the grant of regular bail.

On the other hand, Ms. Nidhi Garg, learned AAG, Haryana has submitted that it is correct that the petitioner has faced incarceration for more than two years and the prosecutrix has already been examined. She has however opposed the grant of bail to the petitioner on the ground that the petitioner is

involved in number of other cases including Sections 379 and 380 IPC and under the Electricity Act and he being a habitual offender, is not entitled for the grant of regular bail.

I have heard learned counsel for the parties.

The petitioner has already faced incarceration for two years and two months. The prosecutrix has already been examined. There was a delay in lodging of the FIR for about one month. Although in such like cases delay is not of much significance but the fact that the petitioner is involved in other cases pertaining to either the Electricity Act or under Sections 379 and 380 IPC would not disentitle the petitioner for grant of bail only on this ground in view of the aforesaid peculiar facts and circumstances.

In view of the aforesaid facts and circumstances, this Court deems it fit and proper to grant bail to the petitioner. Consequently, the present petition is allowed. The petitioner shall be released on regular bail subject to furnishing bail bonds/surety to the satisfaction of the learned trial Court/Duty Magistrate concerned, if not required in any other case.

However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is only meant for the purpose of decision of the present petition.

(JASGURPREET SINGH PURI)
JUDGE

April 12, 2023

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Whether speaking	:	Yes/No
Whether reportable	:	Yes/No