IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M-32474-2022
Date of decision:- 04.10.2023

Rohit

... Petitioner

Versus

State of Haryana **.. Respondent**

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr.Sahil Gupta, Advocate
for the petitioner.

Mr.Munish Sharma, DAG, Haryana.

****

SUVIR SEHGAL, J. (ORAL)

1. This is the second petition filed under Section 439 Cr.P.C. seeking grant of post-arrest bail in:-

FIR No.	Dated	Police Station	Sections
107	06.09.2020	Women Police Station, Hisar	323, 342, 354-B, 354-D, 376 (2)(n), 376(d), 506 & 34 IPC and Section 3(2) (va) 3(1)(w)(i)(ii) & 3(1)(e) of SC/ST Act

2. Version of the prosecution is that FIR, Annexure P1, has been registered on the statement of a 26 years old married lady (hereinafter referred to as '*the prosecutrix*') alleging that she had met Rahul Rathi at a Spa, who allured her and promised to marry her as her husband had deserted her. Later, he started misbehaving with her and started extending threats, when she refused to get into a physical relationship with him. He allegedly

BRIJ MOHAN
2023.10.05 14:30
I attest to the accuracy and
authenticity of this order/judgment,
HIgh Court, Chandigarh

had physical relations with her and also made a video of the incident. Rahul took her to a hotel to Hisar, where he called his friend Rohit, present petitioner, and they raped her. She managed to flee from the hotel with the help of the hotel employees.

3. Counsel for the petitioner contends that the petitioner has been falsely implicated as he is a friend of the main accused. By referring to the FSL report, Annexure P3, he submits that blood samples of both the accused have been taken and the DNA profiling of the petitioner has not matched with that of the prosecutrix. Counsel submits that after the dismissal of the petitioner's first bail petition, Dr.Jyoti Punia (PW11), Medical Officer has been examined who while deposing that possibility of rape cannot be ruled out, in her cross-examination, has categorically stated that there was no external injury on the prosecutrix. Counsel asserts that the medical of the prosecutrix was conducted within three days of the alleged sexual assault. He asserts that the petitioner, who is in custody since 11.09.2022 deserves to be enlarged on bail as all the crucial prosecution witnesses have been examined and there is a remote possibility of an early conclusion of trial.

4. Custody certificate dated 03.10.2023 has been filed by the State counsel, which is taken on record. Opposing the petition, learned State counsel upon instructions from ASI Anju Bala submits that the petitioner is accused of a grave offence and does not deserve any sympathy from the Court. He submits that in her statement under Section 164 Cr.P.C. as well as in her testimony, the prosecutrix has supported the allegations levelled in the FIR. As per his instructions, 11 out of 24 prosecution witnesses have been examined.

BRIJ MOHAN
2023.10.05 14:30
I attest to the accuracy and
authenticity of this order/judgment,
HIgh Court, Chandigarh

5. I have heard counsel for the parties and considered their respective submissions.

6. The allegations levelled against the petitioner and his complicity in the offence would be adjudicated by the trial Court on the basis of ocular and documentary evidence produced before it. Petitioner has been in custody for the last more than 36 months. The trial is not even mid-way. All the vital prosecution witnesses have been examined. This Court is therefore inclined to accede to the prayer made in the petition.

7. In view of the above, without adverting to the merits or demerits of the arguments addressed by counsel for the parties, petition is allowed. Petitioner is ordered to be released on bail on furnishing adequate bail/surety bonds to the satisfaction of the Trial Court/Duty Magistrate, concerned.

8. 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

04.10.2023
Brij

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

BRIJ MOHAN
2023.10.05 14:30
I attest to the accuracy and
authenticity of this order/judgment,
HIgh Court, Chandigarh