

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

Sr. No.: 203

Criminal Miscellaneous No.M-32978 of 2022 (O&M)

Date of Decision: February 03, 2023

Uma Shankar

..... PETITIONER(S)

VERSUS

State of Haryana

..... RESPONDENT(S)

...

CORAM: **HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA**

...

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

Ms. Ankita Ahuja, Assistant Advocate General, Haryana.

. . .

Tribhuvan Dahiya, J (Oral)

Crl. Misc. No.1001 of 2023

This application is allowed and the photocopies of statement of PW-6, FSL report and MLR of the prosecutrix are taken on record, as Annexure P-8 to P-10.

Main case

This is petition for grant of regular bail to the petitioner in case FIR No.83 dated 22.11.2021, under Sections 364-A, 328, 376 (D), 323, 120-B, 506, 342 IPC, registered at Police Station Women Cell, District Palwal.

The allegations in the FIR are that the prosecutrix, aged 55 years, is an old lady having children. On 20.11.2021, she received a phone call on her mobile phone from an unknown number. The caller stated that he was interested in buying her house in the village and wanted to speak to her in that regard. Being in financial crisis, she was willing to sell her house and

trusted the person, rode on his motorcycle. On reaching the toll point, she was made to sniff some intoxicant, and became semi conscious. Then she was taken in an auto to an unknown house from Hassanpur Chowk, Hodal. There, the accused kept her for one night and a day, and was tortured and sexually abused.

Learned counsel for the petitioner contends that the petitioner was not named in the FIR. He was identified in the police station after his arrest alongwith the co-accused, in the presence of the prosecutrix's son-in-law on 25.11.2021. By referring to the testimony of the son-in-law, PW-1, learned counsel contends that he has not supported the prosecution version and stated that the accused were not the persons identified by his mother-in-law in his presence. He has further referred to the statement of the prosecutrix, PW-2, who has not identified the co-accused. She also stated that she did not visit the place of occurrence with the police and no identification parade of the accused persons was conducted by the investigating Officer in the presence of her son-in-law. She has also been declared hostile. Under these circumstances the co-accused, who was not identified by the prosecutrix, has already been admitted to regular bail by the trial Court. The petitioner is in custody since 25.11.2021.

Learned State counsel, on instructions from ASI Munni, opposes the grant of bail by stating that trial of the case is going on and seven out of the nineteen witnesses have already been examined, and the prosecutrix has identified the petitioner. Therefore, his case is different from that of the co-accused.

In view of these facts, it is apparent that twelve prosecution witnesses still remain to be examined and trial is not likely to conclude in near future. Besides, the prosecutrix and other material witnesses have already been examined.

Therefore, the petition is allowed and the petitioner is ordered to be released on bail on furnishing of requisite bonds/sureties to the satisfaction of trial Court/Duty Magistrate concerned.

(Tribhuvan Dahiya)
Judge

February 03, 2023
payal

Whether Speaking/ Reasoned:
Whether Reportable:

Yes/ No
Yes/ No