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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-31233-2023 (O&M)

Date of Decision:- 13.09.2023

SANJAY ALIAS BITTU

....Petitioner

Vs.

STATE OF HARYANA

...Respondent

CORAM:-HON'BLE MS. JUSTICE AMARJOT BHATTI

Present:- Mr. Narender Kaajla, Advocate for the petitioner.

Mr. N.S. Behgal, Asstt. A.G. Haryana.

Mr. Japjit Singh Johal, Advocate for the complainant.

AMARJOT BHATTI, J. (Oral)

CRM-35102-2023

This is an application under Section 482 Cr.P.C. for seeking permission to place on record the statement of mother of the prosecutrix as Annexure P-7.

For the reasons mentioned in the application, CRM is allowed.

The accompanied document i.e. Annexure P-7 is taken on record.

CRM-M-31233-2023

1. The petitioner – Sanjay @ Bittu has filed the instant petition under Section 439 Cr.P.C. for grant of regular bail in FIR No.241 dated 19.06.2022 under Sections 342, 354C, 354D, 376 (2) (n), 450, 506 IPC and Section 67 of the Information and Technology Act, 2000, Police

Station Uklana, Hissar.

2. The facts of the case are that the prosecutrix filed written complaint alleging that in the year 2021 she started going to her college after the period of COVID-19. The accused namely Bittu who was residing in their neighbourhood used to follow her. She brought this fact to the notice of her family members who made complaint to him and his family. He kept mum for few days. On 13/14.02.2021 when she was sleeping in her room, he entered their house by scaling the wall and entered her room. On the alarm raised by her, her father woke up and the accused managed to escape. After 8/10 days she was alone in the house when again Bittu entered the house and bolted the room from inside and committed forcible rape with her. He threatened not to disclose this fact to anybody. She disclosed this fact to her father who could not withstand the shock and expired. Even thereafter, Bittu followed her and threatened to keep mum. He forced her to visit a Hotel at Hisar. He maintained forcible physical relationship and also took her obscene photographs. She tried to stop him. Thereafter her marriage was performed. Even then he did not let her live peacefully. He was forcing her to meet him again, otherwise he would circulate her obscene photographs. Ultimately the matter was reported to the police. With these allegations, the present FIR was registered.

3. Learned counsel for the petitioner argued that the allegations levelled against him are false due to some misunderstanding. During the pendency of the trial, the prosecutrix, her husband and mother have not supported the prosecution story. Their statements are Annexures P-3, P-4 and P-7 respectively. He had filed application [CRM-M-57113-2022] seeking regular bail before this Court but the same was withdrawn on 02.06.2023. Copy of the order is Annexure P-5. Thereafter, the petitioner

had moved regular bail before the ASJ, Hissar which was declined on 06.06.2023. Copy of the said order is Annexure P-6. He is behind the bars since long. He will abide by the terms of bail order. It is prayed that his regular bail application may be allowed.

4. The detailed status report is filed by counsel representing the State. The prosecutrix has also appeared and her counsel has filed *vakalatnama* on her behalf alleging that he does not oppose the regular bail application filed by the present petitioner. As per the detailed status report, it is confirmed that after framing of charge-sheet on 01.12.2021, seven prosecution witnesses have been examined including the prosecutrix and her husband who have not supported the prosecution case and were declared hostile. However, it is pointed out that the present petitioner is involved in other criminal cases also. Therefore, he is not entitled to be released on bail.

5. I have considered the arguments and have gone through the record. As per the status report, the present petitioner was arrested in this case on 22.06.2022 and since then he is behind the bars. The FIR was registered on the statement of prosecutrix. Her statement recorded before the Court under Section 164 Cr.P.C. is Annexure P-2. Thereafter, the challan is presented and the case is fixed for prosecution evidence. It is matter of record that the statements of the victim and her husband have been recorded which are Annexures P-3 and P-4 in which both of them did not support the prosecution story and were declared hostile. Learned counsel for the present petitioner has also placed on record the statement of mother of the victim recorded as PW3 which is Annexure P-7. Even she has not supported the prosecution story and was declared hostile. Trial of this case may take sometime. Therefore, no purpose would be served by

keeping the present petitioner behind the bars for indefinite time period.

The evidence led before the trial Court will be considered at final stage.

Therefore, without expressing my mind on the merits of the case, the regular bail application filed by Sanjay @ Bittu is allowed. He is ordered to be released on bail to the satisfaction of trial Court/Duty Judge.

The petition stands accepted.

13.09.2023

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Whether speaking/reasoned: Yes/No.

Whether reportable: Yes/No

(AMARJOT BHATTI)
JUDGE