

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**225****CRM-M No.36978 of 2023****Date of Decision : 20.10.2023**

Rahul Pandey @ Rahul Kumar

....Petitioner

VERSUS

State of Haryana

....Respondent

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Ms. Neha Rana, Advocate for the petitioner.

Ms. Mayuri Lakhanpal Kalia, DAG Haryana.

ALKA SARIN, J. (Oral)

1. The present petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the petitioner in FIR No.140 dated 27.04.2023 under Sections 354-A, 376(2)(n), 506 and 34 of the Indian Penal Code, 1860 registered at Police Station Kasola, District Rewari.

2. The FIR in the present case has been registered on the basis of a complaint made by the prosecutrix, who is a widow. It has been alleged in the FIR that she is working in a company and has a child from her wedlock. Through Vigo App she had come in contact with the petitioner in the year 2019, who represented himself to be an employee in Canara Bank. They spoke to each for 7-8 months and then the Lockdown was imposed. The petitioner herein insisted on meeting her but she refused to meet him. He then represented that he might have to resign from his job and might not be able to meet the prosecutrix in future. She hence agreed to meet the

petitioner on 30.08.2020. They went to Bikaner Restaurant where they had refreshments and he expressed his love for her and told her that he wanted to marry her. She is alleged to have refused and went back to her house. The petitioner apologized and in May 2022 the prosecutrix stopped talking to him. In July 2022, the petitioner is again stated to have approached her and on 09.10.2022 he called her to his room at Kasaula Chowk, Rewari and by promising that he would marry her soon, made physical relations with her. He again forced her to come to his room on 26.10.2022 by making an attempt of cutting his vein on his hand on video call and forcibly made physical relations with her. He is also alleged to have prepared two obscene videos with the help of a friend. He subsequently started blackmailing her. The complaint was earlier moved on 04.01.2023, which was compromised as the parents of the petitioner stated that the petitioner would marry her but later they resiled. Hence, the present FIR.

3. Learned counsel for the petitioner would contend that the petitioner and the complainant were in consensual relationship and that the complainant is about 36 years of age and has also a son who is about 18 years old. Learned counsel for the petitioner would further contend that the prosecutrix is not appearing before the Trial Court despite numerous summons having been issued to her and now infact non-bailable warrants have been issued to secure her presence.

4. Custody certificate has been filed by learned State counsel as per which the petitioner has been in custody for a period of 05 months and 09 days. Learned State counsel is not in a position to deny that the prosecutrix is not coming forward to get her statement recorded despite

being summoned numerous times and now non-bailable warrants have been issued to secure her presence.

5. I have heard learned counsel for the parties.

6. In the present case the allegations are that the petitioner had made physical relations with the prosecutrix on the pretext of marriage. The complainant despite having been summoned on numerous dates is not coming forward for getting her statement recorded. Infact the Court had issued non-bailable warrants of the prosecutrix for securing her presence. The petitioner has already been in custody for a period of 05 months and 09 days.

7. In view of the above and without commenting upon the merits of the case, I deem it to be a fit case to grant the concession of regular bail to the petitioner. The petitioner is directed to be released on bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the Trial Court/Additional Sessions Judge (Duty) concerned.

8. However, the Prosecution will always be at liberty to apply for cancellation of bail in case the petitioner is found to be misusing the concession of bail in any manner.

9. It is also made clear that any observation made herein shall not be treated as an expression of opinion on the merits of the case.

10. Disposed off. Pending applications, if any, also stand disposed off.

(ALKA SARIN)
JUDGE

20.10.2023

jk

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO