

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

CRM-M-41482-2023

Date of Decision: 11.10.2023

**GAURAV @ RAJTAT @ DHUNA
V/S**

... PETITIONER

STATE OF HARYANA

... RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. Rahul Rathore, Advocate for the petitioner.
Mr. Ranvir Singh Arya, Addl. AG Haryana.
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VIVEK PURI, J. (ORAL)

1. The petitioner is seeking regular bail in case bearing FIR No. 507 dated 21.06.2022 under Section 376 IPC registered at Police Station Samalkha, District Panipat.
2. Custody certificate has been taken on record.
3. Learned counsel for the petitioner contends that the FIR has been registered on the allegations that the petitioner had developed physical relations with the prosecutrix on the false pretext of solemnizing marriage with her. It has been further submitted that the prosecutrix is aged more than 18 years. The charge in the instant case was framed on 03.10.2022 and despite 10 opportunities, the prosecutrix has not been examined in the trial Court. Even, bailable warrants as well as non-bailable warrants of the prosecutrix have been issued by the learned trial Court. The mother of the prosecutrix has lodged a missing report vide GD No. 92-A dated 20.07.2023 at Police Station Begampur, Rohini (Delhi) to the effect that the prosecutrix left the house on 12.07.2023 at about 7 A.M. without informing anyone and had not returned back. Moreover, the prosecutrix has refused to get herself medico-legally examined. The petitioner is in custody for a period of 1 year, 3 months and 02 days and not involved in any other case.

4. Learned State counsel has opposed the bail application on the score that there are categoric allegations with regard to commission of sexual intercourse on the false pretext of marriage attributed against the petitioner. Moreover, out of 15, 2 witnesses have been examined and the statement of the prosecutrix is yet to be recorded.

5. It is significant to note that despite 10 opportunities, the prosecutrix has not been examined. Even, the trial Court has issued bailable and non-bailable warrants for procuring the presence of the prosecutrix. The mother of the prosecutrix has even lodged a missing report at Police Station Begampur pertaining to the prosecutrix. Even the prosecutrix has refused to get herself medico-legally examined. Still, 13 witnesses remain to be examined and the whereabouts of the prosecutrix are not known. The petitioner is in custody for a period of 1 year, 3 months and 2 days and not involved in any other case. The conclusion of trial is likely to take some time and no fruitful purpose would be served by detaining the petitioner in further custody.

6. As such, sufficient mitigating circumstances are made out to extend the concession of bail to the petitioner. Therefore, without making any expression of opinion on the merits of the case, it is ordered that the petitioner be released on regular bail subject to his furnishing fresh bail bonds/surety bonds to the satisfaction of the concerned trial Court/Chief Judicial Magistrate/Duty Magistrate.

7. The petition is allowed.

11.10.2023

Janki

**(VIVEK PURI)
JUDGE**

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