

CRM-M-47949-2022

Date of Decision: 19.01.2023

SUNIL ALIAS BHODU

... PETITIONER

V/S

STATE OF HARYANA

... RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. Abhimanyu Singh, Advocate for the petitioner.

Mr. Ranvir Singh Arya, Addl. AG Haryana.

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VIVEK PURI, J. (ORAL)

The petitioner is seeking regular bail in case bearing FIR No. 227 dated 11.06.2021 under Sections 341, 376(2)(N), 452, 506 IPC, registered at Police Station Rohtak Sadar.

Custody certificate has been taken on record.

Briefly, the FIR has been registered on the basis of the statement of the prosecutrix, who is aged about 33 years, alleging that her husband is working as truck driver and used to remain busy for months together. The petitioner had been committing rape upon her for the last 6 months by threatening her and putting her under fear.

Learned counsel for the petitioner contends that the petitioner is in custody for a period of 1 year, 7 months and 6 days. The prosecutrix is aged about 33 years and was in relationship with the petitioner. It was a case of consent. During the course of her examination, the prosecutrix was confronted with some audio recording indicating the consensual relationship between the parties and the prosecutrix had admitted the same.

Learned State counsel has opposed the bail application on the score that there is categorical statement of the prosecutrix attributing allegations of commission of rape for a period of 6 months by exerting threat against the

prosecutrix. So far out of 12, 6 witnesses have been examined and one has been given up.

The prosecutrix is aged about 33 years. The statement of the prosecutrix in the trial Court has been recorded. It cannot be said that the petitioner, in any manner, can win over or influence the witness. The controversy as to whether it was a case of consent or not will be a debatable and moot point before the trial Court. The petitioner is in custody for a period of 1 year, 7 months and 6 days. Though, he is involved in another case bearing FIR No. 212 dated 21.05.2019 under Sections 148, 149, 323. 324, 506, 325 IPC, registered at Police Station Sadar Rohtak but is on bail in that case. 5 witnesses still remain to be examined. The conclusion of trial may take some more time and no fruitful purpose would be served by detaining the petitioner in further custody.

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.

The petition is allowed.

19.01.2023

Janki

(VIVEK PURI)
JUDGE

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