

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

102+218

CRM-M-47953-2022 (O&M)

Date of Decision: 13.02.2023

Yakshit Munjal

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Mr. R.S. Rai, Senior Advocate with
Mr. S.P.S. Aulakh, Advocate and
Mr. Amit Choudhary, Advocate for the petitioner

Ms. Dimple Jain, AAG, Haryana

Mr. Keshav Partap Singh, Advocate with
Mr. Rajat Singh, Advocate for the complainant

JAGMOHAN BANSAL, J. (ORAL)

CRM-6795-2023

Application for placing on record deposition of PW-2-victim
(Annexure P-11) is allowed. The same is taken on record subject to just
exceptions. Registry is directed to tag at appropriate place.

CRM stands disposed of.

CRM-M-47953-2022

1. The petitioner through instant petition under Section 439
Code of Criminal Procedure, 1973 is seeking regular bail in FIR No.618
dated 26.07.2022 under Sections 346 of Indian Penal Code, 1860
(Sections 354-A and 366 of IPC added subsequently) registered at Police
Station City Yamunanagar, District Yamunanagar.

2. The case of the prosecution is that on 26.07.2022, a complaint was moved by maternal uncle of the prosecutrix averring that on 25.07.2022 at about 03:30 PM, his niece, who is 18 years old, went to Gym at Model Town Yamunanagar and after doing Gym, went somewhere else without informing her parents. His sister and brother-in-law tried to search her but could not trace her. FIR was registered under Section 346 IPC and prosecutrix was recovered on 26.07.2022 from Hotel Golden Tulip, Jaipur. The statement of prosecutrix was recorded under Section 164 Cr.P.C. and Sections 366, 254-A of IPC were added. The prosecutrix stands examined. She has deposed that she left Yamunanagar in a taxi which was arranged by the petitioner. She reached Ambala in the taxi where petitioner met her near Jaggi City Centre. They both left for Jaipur in the car of the petitioner. There were barricades on the way erected by police authorities. The petitioner broke the barricades. It created terror in her mind and she did not raise alarm either while reaching from Yamunanagar to Ambala or from Ambala to Jaipur.

3. Mr. R.S. Rai, learned senior counsel for the petitioner, *inter alia* contends that it is a case of love affair between the petitioner and prosecutrix. The prosecutrix at her own sweet will left her home in a taxi arranged by the petitioner, however, location was sent by the prosecutrix. The chat between both the parties indicates that there was affair between the parties. The prosecutrix was cross-examined and she has remained evasive which shows that she was a consenting party and under pressure

of her family members, she has made allegation against the petitioner. The petitioner is not involved in any other offence. The petitioner has been wrongly implicated in the commission of alleged offence. The petitioner is permanent resident of District Fatehabad. The petitioner has deep roots in the society. There is no possibility of flee from justice.

4. Learned counsel for the prosecutrix submits that it was not a case of affair between the parties. The prosecutrix in her statement has supported case of the prosecution. The petitioner has attempted to kidnap the prosecutrix.

5. Custody Certificate dated 10.02.2023 is taken on record. Registry is directed to tag the same at appropriate place.

6. Learned State Counsel submits that police report has already been filed and charges stand framed. She further submits that out of 17 witnesses, 2 witnesses have already been examined which include the prosecutrix. The petitioner is involved in the commission of grave offence, thus, no leniency is warranted and release of petitioner would hamper the trial.

7. In the case in hand, the petitioner is in custody since 30.08.2022. The prosecutrix stands examined. From her cross-examination, it *prima facie* appears that she was evasive in her replies. The petitioner is not involved in any other offence. There is no allegation of kidnapping with intent to marry, thus, *prima facie*, offence under Section 366 IPC is not made out. Police report under Section 173 of

Cr.P.C. stands filed and charges stand framed. There are 17 prosecution witnesses and till date only 2 witnesses have been examined, thus, there is abysmally low possibility of conclusion of trial in near future. The material witness i.e. the prosecutrix stands examined. As prosecution has right to arrest, investigate the matter and restrain an accused from manipulating or winning over witnesses, similarly accused in view of Article 21 of the Constitution of India has right to defend himself and put forth his stand which cannot be possible while in custody. Prosecution has not led any convincing/plausible documentary or oral evidence indicating possibility of Petitioner being flee from justice or tempering the evidences or winning over/threatening the witnesses.

8. In view of afore-stated facts and circumstances, this Court is of the considered opinion that present petition deserves to allowed and accordingly allowed. The petitioner is ordered to be released on bail subject to conditions as may be imposed by Trial Court/Illaq/Duty Magistrate concerned.

9. Nothing observed hereinabove shall be construed as expression of opinion of this Court on merits of the case and Trial Court shall proceed without being prejudiced by observations of this Court.

(JAGMOHAN BANSAL)
JUDGE

13.02.2023

Mohit Kumar

Whether speaking/reasoned *Yes/No*

Whether reportable *Yes/No*