

CRM-M-51767-2022 -1-

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(218)

CRM-M-51767-2022
Date of decision:- 14.11.2023

Satish Kumar ... Petitioner
Versus
State of Haryana ... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. D.S.Patwalia, Senior Advocate with
Mr. Kannan Malik, Advocate
for the petitioner.

Mr. Munish Sharma, DAG, Haryana
for State-respondent.

SUVIR SEHGAL, J. (ORAL)

1. This is the second petition filed under Section 439, Cr.P.C.
seeking grant of post-arrest bail in:-

FIR No.	Dated	Police Station	Sections
548	08.09.2021	City Sonepat, District Sonepat	354, 376 (2)(A)(i), 511, IPC and Section 3 of the SC&ST Act

2. Case of the prosecution is that FIR, Annexure P-1, has been registered on the complaint of a lady Sub-Inspector (for short “the prosecutrix”), wherein she stated that she joined the City Police Station in January and about two months prior, she was told by the department to join Satish, present petitioner, in order to learn work. When Satish came to know that she belongs to a scheduled caste, his attitude changed. He

molested her on several occasions and even attempted rape. She finally confided in her husband, who supported her and on 31.08.2021, lodged a complaint against the petitioner.

3. Learned senior counsel for the petitioner has contended that the petitioner has been falsely implicated and although the prosecutrix has alleged that the petitioner tried to rape her, but she declined to get herself medically examined. By referring to her testimony, counsel urges that the allegations levelled by her have been demolished in her cross-examination. Counsel submits that the motive of the prosecutrix was to extort money from the petitioner and the dispute was amicably settled when a substantial amount was paid to her, she executed an affidavit, Annexure P-9, in favour of the petitioner, but when a petition seeking quashing on the basis of compromise was filed, she resiled. Counsel submits that petitioner's brother filed a complaint against the prosecutrix and her husband and the petition seeking anticipatory bail filed, by her husband, was declined by this Court by order dated 29.10.2022, Annexure P-13. He submits that after the dismissal of the first petition filed by the petitioner in July, 2022, some formal prosecution witnesses have been examined, but by making a reference to interim orders passed by the Trial Court in September and October, 2023, he submits that the Investigating Officer, despite being served, is not stepping into the witness box for recording of her statement and she has been summoned twice throughailable warrants. Counsel submits that prior to the registration of the FIR, prosecutrix has given a complaint dated 31.08.2021, Annexure P-3,

wherein no allegation has been levelled against the petitioner of any offence under the SC&ST Act. Counsel submits that the petitioner is languishing in custody since 14.09.2021 and the trial is nowhere near conclusion, therefore, the petitioner deserves to be enlarged on bail.

4. *Per contra*, State counsel, upon instructions received from ASI, Jasbir and by referring to the status report filed by way of an affidavit of Deputy Commissioner of Police, West, Sonipat, has opposed the petition by asserting that serious allegations have been levelled against the petitioner, which have been duly supported by the prosecutrix in her statement under Section 164, Cr.P.C. as well as in her deposition. State counsel could not deny that the prosecutrix had refused to undergo medical examination. He submits that the delay in the conclusion of the trial is partly attributed to the petitioner, As per his specific instructions, six out of seventeen prosecution witnesses have been examined.

5. I have heard counsel for the parties and considered their respective submissions.

6. Petitioner is in custody for the last more than twenty six months and the prosecutrix, who is most vital prosecution witness, has been examined. Despite being repeatedly summoned, the Investigating Officer for reasons best known to her, is not appearing. The veracity of the allegations levelled against the petitioner would remain a subject matter of debate before the Trial Court. As there is a little possibility of an early conclusion of the trial, this Court is of the view that the petitioner deserves to be enlarged on bail during its pendency.

7. Without adverting to the merits or demerits of the arguments addressed by counsel for the parties, petition is allowed. Petitioner is ordered to be released on bail on furnishing adequate bail/surety bonds to the satisfaction of the Area Magistrate/Duty Magistrate/Trial Court concerned.
8. Nothing said hereinabove shall be construed to be an expression of opinion on the merits of the case.

(SUVIR SEHGAL)
JUDGE

14.11.2023
Kamal

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No