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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M No.51746 of 2023(O&M)

Date of Decision: 17.10.2023

Lal Chand

..... Petitioner

V/s.

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. Sachin Gupta, Advocate for the petitioner.

Mr. Surinder Kumar Dagar, DAG, Haryana.

Vivek Puri, J. (Oral)

1. The petitioner is seeking regular bail in case bearing FIR No.176 dated 10.04.2023 under Sections 376, 506 of IPC, 1860 registered at Police Station Krishna Gate, Thanesar, Kurukshetra.
2. Custody certificate filed in Court today, is taken on record.
3. Learned counsel for the petitioner contends that the prosecutrix is a married lady aged about 40 years and is also having a son. During the course of trial, the prosecutrix has not supported the prosecution version. The allegations with regard to commission of forcible sexual intercourse spread over a period of 04 years. Even, there is no medical evidence to support the allegations as attributed against the petitioner. The petitioner is in custody for a period of about 05 months and is not involved in any other case.
4. Learned State counsel, on instructions from SI-Suresh, has not disputed the fact that the prosecutrix has not supported the case of prosecution version. However, it has been submitted that as per the MLR, the possibility of sexual intercourse cannot be ruled out. It has also not been disputed that no vaginal

swabs have been taken and sent for chemical examination. Out of 10, 04 witnesses have been examined.

5. It is significant to note that the prosecutrix has not supported the prosecution version during the course of the trial. She is stated to be a married lady aged about 40 years. Moreover, there is no scientific evidence supporting the allegations with regard to the commission of rape attributed against the petitioner. The petitioner is in custody for a period of about 05 months and is not involved in any other case. Still, 06 witnesses remain to be examined. The conclusion of the trial is likely to take sometime and no fruitful purpose will be served by detaining the petitioner in further custody.

6. In such circumstances, sufficient grounds are made out to extend the concession of bail to the petitioner. Accordingly, without making any observations on the merits of the case, the present petition is allowed and the petitioner is ordered to be released on bail, subject to his furnishing bail bonds/surety bonds to the satisfaction of the concerned trial Court/ Chief Judicial Magistrate/ Duty Magistrate.

7. Accordingly, the petition is allowed.

17th October, 2023

Sonia Puri

**(VIVEK PURI)
JUDGE**

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