

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

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CRM-M-54631-2023 (O&M)

Date of decision: 30.11.2023

Pankaj**...Petitioner****Versus****State of Haryana****...Respondent****CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA**

Present:- Mr. Devinder Singh, Advocate
for the petitioner.

Mr. Arjun Lakhanpal, Addl. A.G., Haryana.

MANISHA BATRA, J. (Oral)

1. The present petition has been filed under Section 439 of Cr.P.C. by the petitioner seeking grant of regular bail in case FIR No. 370 dated 10.11.2022, registered under Sections 376(2)(n), 313, 323, 467, 468, 471, 328, 506 of the IPC (Section 201 IPC added later on) and Section 67 of the Information Technology Act at Police Station Industrial Area, Bhiwani.

2. Brief facts of the case relevant for the purpose of disposal of the present petition are that the aforementioned FIR was registered on the basis of a written complaint given by complainant 'C' (*name withheld*) alleging therein that she came in contact with petitioner Pankaj through Facebook in the month of October, 2020. Subsequently, she blocked him but the petitioner accused started making calls to complainant/prosecutrix and persuaded her to maintain friendship with him. They started meeting. On 01.12.2020, the petitioner had taken the complainant to a room of Park View Hotel at Bhiwani and disclosed about his family members and told her

that he wanted to perform marriage with her. In the meantime, he ordered for some snacks and cold drink and after consuming the same, the complainant became unconscious. Thereafter, the petitioner had taken her nude photographs against her wishes in his mobile phone. He showed the photographs to prosecutrix in the next morning and said that if she did not develop physical relations with him, he would make it viral. It was further alleged that on the pretext of marriage, the petitioner had developed physical relations with the prosecutrix. They met in Manu Guest House at Bhiwani in January, 2021 and on the pretext of marriage, the petitioner had kept her confined for about a week and committed rape upon her but he did not solemnize marriage with her. In the said Guest House, the petitioner produced ID of his brother and since she had not brought her ID, the petitioner had prepared her fake Aadhar Card and used the same in the hotel. Later on, the prosecutrix came to know that the petitioner was of criminal antecedents and even carried arms illegally. It was further alleged that she became pregnant with the petitioner and he pressurized her to abort and started giving beatings to her on trivial issues. On 06.09.2022, the petitioner got her pregnancy aborted in a private hospital and refused to solemnize marriage with her and also extended threat to eliminate her and her family members. Due to said threats, the prosecutrix got scared and could not file any complaint earlier. She prayed that penal action be taken against the culprit. Investigation proceedings were initiated after registration of the FIR. The petitioner was arrested on 30.12.2022. During the course of trial, the petitioner moved an application for regular bail before the trial Court but the same has been dismissed, vide order dated

09.10.2023, passed by the Additional Sessions Judge, Bhiwai. Therefore, the petitioner has filed the present petition seeking grant of regular bail pending trial.

3. The present petition has been filed by the petitioner on the grounds and it has been argued by his counsel that the petitioner has been falsely implicated in this case. He is in custody since 30.12.2022. The prosecutrix is major and infact older than petitioner. There was no question of the petitioner performing marriage with her as he has not even completed the age of 21 years. The prosecutrix has involved him falsely in this case as she wanted to continue living with him in a rented accommodation and not with his parents at Rohtak. The material witnesses have since been examined. There is no question of his intimidating the witnesses. Infact, the prosecutrix herself has criminal antecedents as she had committed murder of his own brother. She had voluntarily accompanied the petitioner to different hotels and public places and had willingly stayed with him. He has further argued that it was in fact a case of consent. Therefore, it is argued that the present petition deserves to be allowed.

4. *Per contra*, learned State counsel, in terms of reply as well as custody certificate filed today in Court, has argued that there serious and specific allegations against the petitioner. Trial is going on at a fast pace and out of 18 prosecution witnesses, 09 witnesses have since been examined. The petitioner, by making forgery in the Aadhar Cards of his brother and the prosecutrix, has got her entered into hotels and had ravished her repeatedly on the pretext of performing marriage. She had even become pregnant. The factum of termination of pregnancy of the victim was evident from the

medical record. The victim had been acquitted of the charge of murder of her brother. Therefore, he has prayed that the present petition deserves to be dismissed.

5. I have heard learned counsel for the parties and have also gone through the material placed on record very carefully.

6. The petitioner is alleged to have induced the victim on the pretext of performing marriage with him and is alleged to have committed rape upon her repeatedly. He is also alleged to have caused miscarriage of the fetus in the womb of the victim without her consent. He is further alleged to have committed offences of forgery by preparing his false Aadhar Card as well as of the victim for the purpose of gaining entry to the hotel, where he had taken the victim with the intent to ravish her. The trial is going on a fast pace. The statements of the material witnesses have been recorded and there is nothing on record to show that there would be any undue delay in conclusion of trial. The allegations against the petitioner are serious in nature. Keeping in view the gravity of offences alleged to have been committed by the petitioner, the quantum of sentence which the conviction may entail and the attendant facts and circumstances, this Court is of the considered view that the petitioner does not deserve to be given concession of regular bail. Hence, the petition stands dismissed.

30.11.2023

Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No