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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-60517-2023 (O&M)
Date of decision : 07.12.2023

Sonu Kumar ... Petitioner(s)

Versus

State of Haryana ... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Padamkant Dwivedi, Advocate for the petitioner.

Ms. Priyanka Sadar, AAG Haryana.

ALKA SARIN, J. (ORAL)

1. This is a petition under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the petitioner in FIR No.495 dated 02.11.2022 under Section 376 (2) (n), 354-C of the Indian Penal Code, 1860, registered at Police Station Saran, District Faridabad.
2. The FIR was registered on the statement of the prosecutrix who stated that the petitioner, who she came to know in the year 2020, asked her to marry her. He called her to an OYO Hotel located near Number One Market and took her with him and on the pretext of marriage he made physical relations with her. He also took some obscene photos of her and again trapped her 2-3 times and took her to the same OYO Hotel and made physical relations with her.

3. Learned counsel for the petitioner would contend that the petitioner has falsely been implicated in the present case. Learned counsel would further contend that the incident alleged is of 2020 and the FIR was lodged in the year 2022. It is further the contention of the learned counsel that the prosecutrix in her statement recorded under Section 164 CrPC has reiterated the version as given in the FIR. However, the prosecutrix in her deposition before the Court has not supported the version of the prosecution and she has stated that the relationship between her and the petitioner was consensual. It is further the contention of the learned counsel for the petitioner that the petitioner has been in custody for a period of 01 year and 25 days and that he has absolutely clean antecedents.

4. Learned counsel for the State has filed the custody certificate and as per the custody certificate the petitioner has been in custody for a period of 01 year and 25 days and there is no other case pending against him. Learned counsel for the State is not in a position to deny the fact that the prosecutrix in her deposition before the Court has been declared hostile. Learned State counsel has further pointed out that out of 14 witnesses, only 07 have been examined.

5. Heard.

6. In the present case though the FIR was lodged on the statement of the prosecutrix where she has stated that the petitioner had made physical relations with her on the pretext of marriage, however, in her deposition before the Court she has been declared hostile. Out of 14 witnesses, only 07

have been examined. As per the custody certificate, the petitioner has been in custody for a period of 01 year and 25 days and there is no other case pending against him. The trial is likely to take some time to conclude and no useful purpose would be served by keeping the petitioner behind the bars any further.

7. In view of the above and without commenting upon the merits of the case, this Court deems it to be a fit case to grant the concession of regular bail to the petitioner. The petitioner is directed to be released on bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the Trial Court/Additional Sessions Judge (Duty) concerned.

8. However, the Prosecution will always be at liberty to apply for cancellation of bail in case the petitioner is found to be misusing the concession of bail in any manner.

9. It is also made clear that any observation made herein shall not be treated as an expression of opinion on the merits of the case.

10. Disposed off. Pending applications, if any, also stand disposed off.

07.12.2023

Yogesh Sharma

(ALKA SARIN)

JUDGE

NOTE: Whether speaking/non-speaking: Speaking

Whether reportable: YES/NO