

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

1. CRM-M-61580-2023 (O&M)

Ashok Kumar Sharma ...Petitioner

Versus

State of Haryana ...Respondent

2. CRM-M-61845-2023 (O&M)

Rameshwar Mishra ...Petitioner

Versus

State of Haryana ...Respondent

Date of decision: 13.12.2023

CORAM:- HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Keshav Pratap Singh, Advocate
for the petitioner in CRM-M-61580-2023.

Mr. Munish Behl, Advocate
for the petitioner in CRM-M-61845-2023.

Mr. Neeraj Poswal, AAG, Haryana.

MANISHA BATRA, J. (Oral)

1. This common order shall dispose of above noted two petitions as they arise out of the same FIR.
2. These are the second petitions, which have been filed under

Section 439 of the Code of Criminal Procedure, seeking grant of regular bail to petitioners Ashok Kumar Sharma and Rameshwar Mishra in case FIR No. 480 dated 30.06.2023, registered under Sections 376-D and 506 of the IPC at Police Station Surajkund, District Faridabad.

3. The first petitions, filed by the petitioners bearing ***CRM-M-42546-2023*** & ***CRM-M-57537-2023***, respectively, were dismissed by this Court, vide order dated 23.11.2023, by passing detailed orders. The facts of the case as noticed earlier in ***CRM-M-42546-2023*** are reproduced herein below:

“2. The brief facts of the case relevant for the purpose of disposal of this petition are that the aforementioned FIR was registered on the basis of written complaint submitted by the complainant (name withheld) alleging therein that she was a Nurse by profession. About two months back, she came into contact with a person who while introducing himself as Ramedharam had conversation with him and during the course of the same, they exchanged their phone numbers. They had started talking casually on phone and the said Ramedharam represented to the complainant that he would get her appointed for a job. The complainant requested him to get secured a job for her brother. On the night of 28.06.2023, the said Ramedharam called her on phone and told her to come to him in the next morning. On the next morning, on his asking, she went to Surajkund Road to meet Ramedharam who reached there in a car while being accompanied by one person, who introduced himself as Ashok Sharma. They took the complainant to a government residence situated at some place called as NTPC and then both of them committed rape upon her.

Both of them also extended threats to ruin her life and kill her, if she disclosed about the incident to anybody. After registration of FIR, medico legal examination of the victim was conducted. Investigation proceedings were initiated. The accused Rameshwar Mishra-petitioner (who had told his name as Ramedharam) and the co-accused Ashok Sharma were arrested. They were interrogated and suffered disclosure statement in pursuance of which the place of occurrence was demarcated by them and recovery of car used at the time of incident was got recovered at the instance of accused Rameshwar Mishra. After completion of necessary investigation and usual formalities, challan was presented in the Court for trial of the accused. The petitioner had moved an application for grant of regular bail before the trial Court but the same has been dismissed vide order dated 16.08.2023.”

4. Learned counsels for the petitioners have argued that the petitioners are in judicial custody since 30.06.2023. Their custodial interrogation is no more required. The conclusion of trial is likely to take a long time. It is further argued that the prosecutrix, in her statement recorded on 11.10.2023 by way of examination-in-chief, has deposed that Rameshwar and Ashok were earlier known to her. She accompanied them with her free will and consent. No wrong act was ever committed by them upon her forcefully or against her will. Her relations with the accused were consensual and they never committed rape upon her at any point of time. She was declared hostile and during her cross-examination, she deposed that it is incorrect to suggest that accused persons committed rape upon her repeatedly and they ever extended any threat to her. Therefore, learned

counsels for the petitioners have prayed that in view of the fact that the prosecutrix has not supported the prosecution version in her statement recorded before the Court and has been declared hostile, the present petitions deserve to be allowed.

5. Learned State counsel has filed the custody certificates of the petitioners in Court today. He has opposed the bail of the petitioners on the ground that there are serious allegations against them but he could not dispute the fact that the prosecutrix has not supported the prosecution version.

6. I have heard learned counsel for the parties and have also perused the material placed on record very carefully.

7. The petitioners are alleged to have committed rape upon the prosecutrix and are alleged to have extended threats to her. They are in custody since 30.06.2023. A perusal of the statement of the prosecutrix, recorded before the trial Court, shows that she has not implicated the petitioners in this case and has totally exonerated them from the allegations as levelled against them. She has been declared hostile on resiling from her previous version. Keeping in view the period spent by the petitioners in custody, the fact that the prosecutrix herself has not supported her case and also in view of the attendant facts and circumstances of the case, this Court is of the considered opinion that the petitioners deserve to be granted the concession of regular bail.

8. Accordingly, the present petitions are allowed and the petitioners are ordered to be released on regular bail, subject to their furnishing bail/surety bonds to the satisfaction of the trial Court/Duty

Magistrate concerned.

9. It is made clear that any observation made herein above is only for the purpose of deciding the present petition and the same shall have no bearing on the merits of the case.

10. Let a photocopy of this order be placed on the file of connected case.

13.12.2023
Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No