

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

220

CRM-M-18592-2024 (O&M)
Date of Decision: 23.04.2024

PAWAN KUMAR

...Petitioner

VERSUS

STATE OF HARYANA

...Respondent

CORAM : HON’BLE MRS. JUSTICE MANISHA BATRA

Present : Mr. Gaurav Singla, Advocate for the petitionr.

Ms. Nidhi Garg, AAG, Haryana.

MANISHA BATRA, J. (Oral)

The present petition has been filed under Section 439 of Cr.P.C.

seeking regular bail in FIR mentioned below:-

FIR No.	Date	Police Station	Sections
0314	07.07.2023	Police Station Kheripal, District Faridabad.	Section 376(2) (n) and 506 of IPC (added later on)

2. Brief facts relevant for the disposal of this case are that the
aforementioned FIR was registered on 07.07.2023 on the basis of statement
recorded by prosecutrix-R(name withheld) alleging therein that she was married
and was having a ten years old child and she was in search of a job. On
05.06.2019, while she was present outside one company in search of job, the
petitioner met her and by exchanging their phone numbers, he assured to help her
in securing some job. After 3-4 days, he told her to meet some contractor. The
prosecutrix met him but did not opt for doing the job offered by the said
contractor. Some days thereafter, the petitioner asked her to accompany him at
some apartment in Sector 86 for introducing her with some friend for the purpose

of getting a job. She had reached at the given address. The petitioner offered some cold drinks to her upon consuming which she lost her consciousness and then later found out that she had been ravished by the petitioner. While stating that that he had taken her objectionable pictures in his mobile phone and would make the same viral if she disclosed about the incident to anybody, he started black-mailing her and forced her to maintain physical relations with her. He had also impregnated her and she was having five months of pregnancy.

3. After registration of FIR, investigation proceedings were initiated. The statement of the prosecutrix under Section 164 Cr.P.C was recorded. She was also medically examined. The petitioner was arrested on 22.09.2023. After completion of necessary investigation and usual formalities, challan was presented in the Court and presently the petitioner has been facing trial before the learned Trial Court. He moved an application for grant of regular bail before the learned Trial Court which has been dismissed vide order dated 12.04.2024.

4. Learned counsel for the petitioner has vehemently argued that he has been falsely implicated in this case. The prosecutrix has not supported the prosecution version before the Trial Court. He is in custody since 22.09.2023. The trial is likely to take time. There are no chances of his absconding or intimidating the witnesses as the material witnesses already stand examined. No useful purpose would be served by his further detention. With these broad submissions, it is urged that petitioner deserves to be released on bail.

5. Per contra, learned State counsel has argued that keeping in view the gravity of the allegations, the petition does not deserve to be allowed.

6. I have heard learned counsel for the petitioner and State counsel at considerable length and have gone through the record.

7. Learned counsel for the petitioner has placed on record a copy of statement of the prosecutrix as recorded before the learned Trial Court as on

05.04.2024 and a perusal of the same reveals that the prosecutrix gave a total go bye to the prosecution version by taking a U-turn and by stating that she has filed a complaint before the police against the petitioner as there was a dispute with regard to the transaction of sum of Rs.1,00,000/- between them and as the petitioner was not returning the same. She denied that any offence of rape was ever committed upon her by the petitioner. She had been declared hostile on request of learned public prosecutor but no incriminating evidence could be extracted from her testimony.

8. Keeping in view the nature of the evidence which has come on record in the form of testimony of the prosecutrix, the incarceration period of the petitioner and the attending facts and circumstances of the case but without commenting upon the merit of the case, I am of the considered opinion that the petitioner deserves to be given concession of regular bail. Accordingly, the petition is allowed and 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.

9. Pending applications, if any, also stand disposed off.

23.04.2024
Deepak Patwal

(MANISHA BATRA)
JUDGE

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| 1. | <i>Whether speaking/reasoned</i> | <i>Yes/No</i> |
| 2. | <i>Whether reportable</i> | <i>Yes/No</i> |