

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

3. CRM-M-27630-2024 (O&M)
Reserved on:12.08.2024
Date of pronouncement:22.10.2024

SANDEEP

...Petitioner

Versus

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Present: Mr. Suvir Sidhu, Advocate and
Mr. Arun Kumar, Advocate
for the petitioner.

Mr. Kirpal Singh Thakur, AAG, Haryana.

HARPREET KAUR JEEWAN, J.

1. The present petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case bearing FIR No.249 dated 09.09.2023 under Sections 313, 34, 376(2)(n), 376-D, 506 IPC registered at Police Station Bass, District Hissar.
2. Custody certificate dated 11.08.2024 has been filed on behalf of the respondent-State, which is taken on record.
3. As per the prosecution version, the petitioner had been repeatedly committing rape upon the prosecutrix for about 5-6 years prior to the registration of the present FIR. The petitioner used to visit the house of the cousin brother of the prosecutrix and started violating her. The petitioner is alleged to have taken the

obscene photographs of the prosecutrix as well and on the basis of the said photographs, he used to blackmail her. On 23.04.2023, the petitioner is alleged to have called the prosecutrix again and committed rape upon her. One day thereafter, the marriage of the prosecutrix was solemnized on 24.04.2023, however the petitioner continued harassing her by creating fake ID. The prosecutrix was again called to Jind by threatening her that her videos would be uploaded in the Facebook, in case she would not visit the place. The petitioner along with the co-accused Deepak and Sonu committed rape upon the prosecutrix. The prosecutrix was found to be pregnant for three months, whereas her marriage was solemnized only 2 months prior to that and she got scared. When the petitioner came to know about this fact, he started pressurizing the prosecutrix to abort the child and the petitioner along with his co-accused gave some medicine to her and on the next day her pregnancy was terminated.

4. Learned counsel for the petitioner submits that the petitioner is facing the trial with the allegations, which are vague and dubious. There are major discrepancies and flaws in the prosecution story. There is an unexplained delay of 5 to 6 years in the registration of the FIR. The two co-accused of the petitioner have been declared innocent during the investigation despite there being alleged serious allegations against them as well. No photographs or videos have been found during the investigation, which falsify the whole prosecution story. As per the medical examination of the prosecutrix, no injury was found on her body.

5. Learned counsel for the petitioner further contends that the marriage of the petitioner was fixed for 23.09.2023 and present FIR was got registered 13 days prior to the solemnization of the said marriage with the sole motive that the petitioner may not get married. The petitioner is in custody since 11.12.2023 and

conclusion of trial is going to take time. Investigation is complete and final report under Section 173 Cr.P.C. has been presented before the trial Court. The petitioner is ready to face trial. He further submits that the trial is going to take time to conclude, as such, prayer for releasing the petitioner on bail has been made.

6. On the other hand, learned State counsel has opposed the bail petition on the ground of gravity of allegations against the petitioner. While referring to the status report dated 08.07.2024, learned State counsel submits that prosecutrix has supported her version in the statement recorded under Section 164 CrPC, which was recorded on 14.09.2023. Learned State counsel further contends that during the investigation, the ultrasound records were obtained from the Shreya Diagnostic Centre (Pushpa Ultrasound Centre), Jind. As per the said report (Annexure R-3), the gestational age of foetus was about 8 weeks and 6 days. However, this fact has been confirmed that co-accused of the petitioner were found innocent during the investigation and final report has been presented only against the petitioner under Sections 313, 376(2)(N) and 506 IPC.

7. I have heard the learned counsel for the parties and perused the relevant documents.

8. Investigation is complete and final report under section 173 Cr.P.C. has already been presented before the trial Court. The statement of the husband of the prosecutrix is alleged to have been recorded on 10.11.2023 by the Investigating agency (Annexure P-6), whereby he has stated that after the marriage, the behaviour of the prosecutrix was not good towards him and his family members. The prosecutrix was pregnant and she telephonically informed that she suffered miscarriage because of some problem. The prosecutrix most often lived in her parental house and she also intended to give divorce to him.

There were WhatsApp chat *inter se* the petitioner and the prosecutrix (Annexure P-9). The prosecutrix was 22 years old at the time of the registration of the FIR. The explanation regarding the delay in registration of the FIR is going to be considered during the trial. The petitioner is in custody since 11.12.2023. The allegations of the prosecutrix that she was violated without her consent and the counter-allegations of the defence that it was a consensual relationship is a matter of trial. Conclusion of trial is going to take time.

9. In view of the above circumstances, the petitioner is able to make out a case to releasing him on bail during the trial, as such, without expressing any opinion on the merits of the case, the present petition is allowed.

10. The petitioner is ordered to be released on regular bail, subject to his furnishing adequate bonds and surety bonds to the satisfaction of the trial Court concerned.

11. Pending miscellaneous application (s), if any, shall also stand disposed of.

(HARPREET KAUR JEEWAN)
JUDGE

22.10.2024
P.Bhatt

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