

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

CRM-M-40217-2023

DATE OF DECISION : 03.04.2024

RAKESH KUMAR

... PETITIONER

V/S

STATE OF HARYANA

... RESPONDENT

CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Present: Mr. S.S.Gill, Advocate for the petitioner.

Mr. Amrik Singh Narwal, D.A.G., Haryana.

Mr. Ashish Nagar, Advocate for the complainant.

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HARPREET KAUR JEEWAN, J. (ORAL)

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. 618 dated 19.12.2022 registered under Sections 324, 354, 354 (A)(1)(i), 452, 506 and 376 (added later on) of IPC at Police Station Sadar Sirsa, District Sirsa.

2. Learned counsel for the petitioner *inter alia* contends that in the FIR, there are no allegations regarding the offence under Section 376 IPC. The petitioner was arrested on 20.12.2022 and he was released on regular bail on 28.12.2022. However, the prosecutrix improved her version in her statement subsequently recorded on 20.12.2022 under Section 164 Cr.P.C. and she alleged about the sexual abuse by the petitioner. Initially, at the time of medical examination on 17.12.2022 there are no allegations and no history of sexual assault. The statement of the prosecutrix has already been recorded during the trial who is married and major. The petitioner is in

custody since long. There is no other history of cases. He is ready to face the

trial.

3. Learned State counsel has confirmed that as per the initial medico-legal report examination dated 17.12.2022 (Annexure R-1), there were only injuries which are on the fingers and hand whereas injury No. 4 is on the upper part of the chest. Later on, in the statement recorded under Section 164 Cr.P.C., the prosecutrix has alleged allegations of sexual abuse and subsequently, another medico-legal report of the prosecutrix was got on 28.01.2023 (Annexure R-3), wherein the prosecutrix has given history of sexual physical assault.

4. Learned counsel for the complainant has opposed the bail application on the ground of gravity and has contended that statement of the husband of the complainant is yet to be recorded during Trial and there can be many social reasons for not giving information at the first instance regarding the sexual abuse.

5. I have considered the aforesaid contentions.

6. The investigation is complete. Challan/final report under Section 173 Cr.P.C. has already been presented. Charges have been framed. Statement of the prosecutrix has already been recorded during Trial. This fact has been confirmed in the status report that though there were 4 injuries but injury Nos. 2, 3 and 4 are superficial. Custody certificate dated 15.09.2023 has been filed today, which is taken on record, as per which the petitioner was in custody w.e.f. 20.12.2022 to 28.12.2022 and he is again in custody since 09.02.2023. There are total 16 prosecution witnesses. The conclusion of trial is going to take time. The prosecutrix is major and married.

7. Without expressing any opinion on the merits but keeping in

view the aforesaid facts and circumstances, the application is allowed. The petitioner is ordered to be released on regular bail, subject to his furnishing adequate bonds/surety to the satisfaction of the trial Court/Chief Judicial Magistrate, concerned and also subject to the conditions fixed by the trial Court.

03.04.2024
Janki

(HARPREET KAUR JEEWAN)
JUDGE

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