

Sr. No.221

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

CRM-M-41177-2023
Date of decision: 25th January, 2024

AHMAD ALIAS SHUKU**Petitioner**

versus

STATE OF PUNJAB**Respondent**

CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Present: Mr. Viren Sibal, Advocate and
Mr. Satyam Sharda, Advocate
for the petitioner.

Mr. Kunwarbir Singh, AAG, Punjab.

HARPREET KAUR JEEWAN, J. (ORAL)

1. The instant petition has been filed by the petitioner under Section 439 of the Code of Criminal Procedure, 1973 seeking regular bail in case FIR No.10 dated 14.07.2022, under Sections 366-A, 376, 120-B of IPC (Sections 341, 342, 506 IPC; Section 6 POCSO Act and Sections 67, 67-A, 67-B, I.T. Act added later on) registered at Police Station Dhar Kalan, Pathankot.
2. It is the case of the prosecution that on 03.05.2022, when the prosecutrix was returning to her house from the house of her sister-in-law, the petitioner, who is the son of her sister-in-law, took her to Bharmani Hotel, Village Niari, where co-accused namely Sandeep Singh was already present and he committed rape upon the prosecutrix. Thereafter, co-accused Sandeep Singh called the prosecutrix and forcibly made physical relations with her on several occasions by extending threats that he had made her obscene videos and photographs and if she does not come to meet him, he will make the videos viral.

3. Learned counsel for the petitioner has placed on record copy of the statement of the prosecutrix (PW1) recorded during the trial. The said copy is taken on record.

4. Learned counsel for the petitioner *inter alia* contends that the petitioner is in custody since 14.08.2022. As per the FIR, the petitioner is the son of sister-in-law of the prosecutrix, who is alleged to have dropped the prosecutrix on his scooty. The age of the prosecutrix is 17 years and there is no question of using violence against the petitioner.

5. Learned counsel appearing for the petitioner further contends that the statement of the prosecutrix and other two material witnesses have already been recorded. The prosecutrix has stated in her cross-examination that petitioner has not committed rape upon her. The Trial is going to take time. As such, the prayer was made to release the petitioner on bail during the Trial.

6. Learned State counsel contends that final report under Section 173 Cr.P.C. has already been presented before the trial Court. Out of total 21 witnesses, only 03 witnesses i.e. hotel manager, prosecutrix and school teacher, have been examined. There are no allegations of rape against the present petitioner. Learned State counsel further contends that the petitioner is not the main accused in the present case.

7. Keeping in view the role attributed to the petitioner; the fact that investigation is complete; the final report under Section 173 of the Code of Criminal Procedure has been presented before the trial Court; the material witnesses have been examined; the trial will take some time to conclude and there is no apprehension of absconding the petitioner during the trial, the present petition is allowed.

8. The petitioner is ordered to be released on regular bail, subject to his furnishing adequate bonds/surety to the satisfaction of the trial Court/CJM concerned. However, nothing expressed hereinabove would be construed to be an expression of opinion on merits of the case.

(HARPREET KAUR JEEWAN)
JUDGE

25th January, 2024
sim

<i>Whether speaking/reasoned</i>	:	<i>Yes/No</i>
<i>Whether reportable</i>	:	<i>Yes/No</i>