

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

105/2

CRM-M No.48951 of 2023
Date of decision: 15.01.2024

Vijay ... Petitioner

Vs.

State of Haryana ... Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Jagjeet Singh, Advocate,
for the petitioner.

Mr. Arjun Lakhanpal, Addl. AG, Haryana.

MANISHA BATRA, J. (Oral)

1. The petitioner herein is seeking concession of regular bail by filing the instant petition under Section 439 of Cr.P.C. in case having arisen out of FIR No.22 dated 07.04.2023 registered under Sections 328, 354C, 354D (2), 365, 376, 420, 506 and 34 of IPC at Women Police Station, Hansi, District Hisar.
2. Brief facts relevant for the purpose of disposal of this petition are that the aforementioned FIR was registered on the basis of a written complaint filed by the prosecutrix “M” (name withheld) alleging therein that she was a married woman having a child. The main accused Geetanshu was known to her since her school days. The co-accused

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Geetanshu had met her in the month of August 2022 when she had gone to appear in her BA Examination at Jat College, Hisar. The accused Geetanshu had obtained her cell number from someone and thereafter started making calls and sending messages to her despite her resistance. She alleged that on insistence of the accused Geetanshu to meet her once with the promise to not to call her again, she had gone to meet him in Indian Lodge Hotel, Hansi on 03.03.2023 wherein, on the pretext of having conversation with her, the accused Geetanshu took her to a room and offered some cold drink to her on consuming which she did not remain in her full senses. She alleged that the main accused Geetanshu committed rape upon her and when she came into senses, she found herself into naked condition. It was disclosed by the accused Geetanshu that he had taken her photographs and made videos and threatened to make the same viral if she disclosed about the incident to anyone. As per the allegations further made by the complainant, that on 03.04.2023, the main accused Geetanshu called her at District Court, Hisar wherein in connivance with the present petitioner Vijay, one Naresh Goyal and one unknown person she was made to go to Chamber No.31. She was offered a cold drink by the accused Geetanshu in conspiracy with the present petitioner and thereafter was made to sign some papers while extending threat to her and out of fear and to save her reputation, she did so. She alleged that thereafter she was taken by the petitioner and the co-accused in a vehicle towards Barwala but she managed to call her brother who reached at the spot and got her released from the clutches of the

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petitioner and the co-accused. After registration of FIR, investigation proceedings were initiated. The prosecutrix was medico legally examined. Her statement under Section 164 of Cr.P.C. was recorded wherein she reiterated the same allegations. Offence under Section 354C of IPC was added during investigation. The co-accused Geetanshu was arrested on 10.04.2023. The petitioner was arrested on 18.05.2023 whereas the remaining persons named in the FIR were found to be innocent. Presently, the petitioner along with the co-accused Geetanshu is facing trial for commission of the aforementioned offences. He had moved an application for grant of bail which was dismissed by the Court of learned ASJ, Hisar on 25.08.2023.

3. Learned counsel for the petitioner has vehemently argued that the only allegation against the petitioner is that he had entered into a conspiracy with the main accused Geetanshu, made the prosecutrix consume some cold drink mixed with some intoxicating substance thereby making her lose her senses and by way of force procured her signatures on a document which turned out to be deed of live-in relationship. He has argued that the petitioner being a friend of the accused Geetanshu had simply attested the deed of live-in relationship as a witness. The prosecutrix had not only thumb marked but also signed the same in her full senses. She had made material improvements in her statement recorded at different stages. The allegation as levelled against him that he had made her consume some intoxicating substance in conspiracy with the co-accused stands belied as in her sworn testimony,

she did not say so and simply stated that the petitioner along with the main accused and others had forcibly procured her signatures on some papers. While vehemently arguing and stressing that the ingredients for neither of the offences punishable under Sections 328, 354C, 354D (2), 365, 376, 506 and 34 of IPC had been made out against him, he further argued that the allegations also do not make out any case of offence under Section 420 of IPC as against him. Hence, he urged that it was fit case for extending benefit of bail to the present petitioner.

4. Per contra, learned State counsel has argued the petitioner having conspired with the co-accused to commit the offences for which he has been challaned and the allegations against him being grave and serious in nature, he did not deserve to be given concession of bail and urged that the petition is liable to be dismissed.

5. I have heard learned counsel for the parties and have perused the record.

6. As per the allegations levelled in the FIR, the petitioner had entered into a conspiracy with the main accused Geetanshu and in pursuance of the same, as on 03.04.2023, the prosecutrix was called in Chamber No.31 of some lawyer in District Court, Hisar wherein she was offered some cold drink on consuming which she started feeling uneasy and then was forced by the petitioner and the co-accused to sign some papers which later on turned out to be a deed of live-in relationship executed between the main accused and the prosecutrix. Undoubtedly, the petitioner is shown to be one of the attesting witnesses to the deed of

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live-in relationship shown to be executed on 03.04.2023. A perusal of this document, however, shows that it was not only thumb marked but was also signed by the petitioner. In her sworn statement copy of which has been placed on record, she is shown to have categorically stated in her examination-in-chief that the present petitioner along with co-accused had forcibly taken her signatures on some paper on threat of making her obscene videos viral in society if she did not put her signatures on those papers. She did not say that she was made to consume some cold drink having some cedative in the same. The allegations as levelled against the petitioner even if taken on the face of record, do not prima facie make out a case for commission of offences punishable under Sections 328, 354C, 354D (2), 365, 376, 506 and 34 of IPC. It is highly debatable as to whether the ingredients for commission of offence of cheating punishable under Section 420 of IPC have even been made out as against him or not? He is in custody since 18.05.2023. The petitioner has placed on record material to show that infact there was extra marital/love affair between the victim and the accused Geetanshu. Keeping in view the nature of the allegations that have been levelled against the petitioner, the period of his incarceration, the fact that it prima facie appears to be a consensual sexual relationship between the co-accused Geetanshu and the prosecutrix, the fact that the statement of the victim has already been recorded and the trial is otherwise likely to take time and the attendant facts and circumstances but without meaning to make any comment on the merits of the case, I am of the considered

opinion that the petition deserves to be allowed. Hence, the same is allowed and the petitioner is ordered to be admitted to bail subject to his furnishing personal as well as surety bonds to the satisfaction of learned trial Court.

15.01.2024
manju

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No