

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH
105

CRM-M No.55406 of 2023
Date of decision: 15.01.2024

Geetanshu alias Geetu ... Petitioner

Vs.

State of Haryana ... Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Dr. Pankaj Nanhera, 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 petitioner was known to her since her school days. He had met her in the month of August 2022 when she had gone to appear in her BA Examination at Jat College,

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Hisar. The petitioner 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 petitioner 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, he 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 petitioner committed rape upon her and when she came into senses, she found herself in naked condition. It was disclosed by the petitioner 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, on 03.04.2023, the petitioner called her at the District Court, Hisar. She was instructed to reach at Chamber No.31 of the Court and on reaching there, she found the petitioner present with one unknown person and co-accused Vijay and one Naresh Goyal. She was offered cold drink and on having it, she started feeling dizziness. The petitioner and the co-accused made her sign certain 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 petitioner and the co-accused. After registration of FIR, investigation proceedings were

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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 petitioner was arrested on 10.04.2023. In pursuance of his disclosure statement, he got recovered the mobile phone used by him for making conversation with the prosecutrix as well as the vehicle used in the crime. The co-accused Vijay was also arrested subsequently whereas the remaining persons named in the FIR were found to be innocent. Presently, the petitioner along with the co-accused Vijay 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 31.07.2023.

3. It is submitted in the petition and learned counsel for the petitioner has vehemently argued that the petitioner has been falsely implicated in this case. He is in custody since 10.04.2023. Infact the petitioner was having an affair with the prosecutrix. There had been Whatsapp chats between them which prove this fact. The prosecutrix had strained relations with her husband. She had even signed a deed of live-in relationship with the petitioner. She had met the petitioner even on 25.03.2023. It is a case of consensual relationship and it is only under the pressure of her family members that she has implicated the petitioner in this case. He has further argued that the sworn testimony of the prosecutrix has also been recorded before the learned trial Court. As

such, there are no chances of petitioner's intimidating her. The trial is otherwise likely to take time as only one witness i.e. the prosecutrix has been examined so far. With these broad submissions, he argued that neither of the ingredients of the offences for which he has been booked, have been made out and, therefore, the petitioner deserves to be given concession of bail.

4. Per contra, it is argued by learned State counsel that there are serious and specific allegations as against the petitioner. In the statement recorded before the Court, the prosecutrix had supported the prosecution version. The petitioner had not only committed rape upon the prosecutrix but by cheating her, had also procured her thumb impressions as well as her signatures in live-in relationship deed/agreement. Hence, he has argued that the petition does not deserve to be allowed.

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

6. The petitioner is alleged to have initially fostered personal interaction with the complainant thereby stalking her and is further alleged to have called upon her to some hotel on 03.03.2023 wherein he is alleged to have caused her to be taken some intoxicating substance and under the influence of the same, he is alleged to have subjected her to rape. He has also been booked for commission of offence punishable under Section 365 of IPC. However, it is debatable question as to whether the said offence has been made out at all or not on the basis of

the allegations as levelled in the FIR. He along with the co-accused is also alleged to have induced her to sign some deed of live-in relationship on 03.04.2023. The petitioner has placed on record certain copies of Whatsapp chat shown to have taken place between them during the period from March 2023 to April 2023 which is a clear pointer that infact it was a case of consensual relationship. Copy of extract of relevant register of Indian Lodge Hotel, Hansi has also been annexed revealing that the prosecutrix had visited this hotel with the petitioner not only on 03.03.2023 but on 25.03.2023 as well and this fact is also shown to have admitted by her in her deposition recorded before the learned trial Court on 07.12.2023 copy of which has been placed on record. The prosecutrix is also shown to have admitted the factum that there had been telephone chats between the petitioner and herself in the routine and rather several times a day. No explanation is shown to have come on record with regard to her visiting in a hotel with the petitioner as on 25.03.2023. The prosecutrix is a major married female having one male child. She is also shown to have admitted that the fact that she had been meeting the petitioner in a hotel which had not been disclosed either to her husband or any other member of her family. If it was a case of rape, then it is difficult to assume that she had been meeting him in this manner by concealing this fact from her family members. The allegation that she was administered some intoxicating substance laced with some cold drink on 03.04.2023 in the Chamber of some Advocate at District Court,

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Hisar and was induced to sign deed of live-in relationship cannot be believed on the face of the same. The petitioner has also placed on record photographs which shows them in intimate positions. As such, prima facie it cannot be stated to be a case of rape against consent of the prosecutrix. Keeping in view the period of incarceration of the petitioner, the nature of evidence which has come on record in the form of her testimony 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

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(MANISHA BATRA)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No