

Neutral Citation No. 2024:PHHC:033052

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

306

CRM-M No.55847 of 2023
Date of decision: 06.03.2024

RAJ KUMAR
STATE OF HARYANA

.... Petitioner

Versus

.... Respondent

CORAM: HON’BLE MRS. JUSTICE MANISHA BATRA

Present : Mr. Sanchit Punia, Advocate for the petitioner.

Mr. Neeraj Poswal, A.A.G., Haryana.

MANISHA BATRA, J. (oral)

1. The present petition has been filed under Section 439 of Cr.P.C.

seeking regular bail in FIR mentioned below:-

FIR No.	Dated	Police Station	Sections
709	13.12.2022	Civil Lines, District Hisar	376(2)(n), 34 and 506 of IPC and 25 of Arms Act, 1959. Section 34 of IPC and Section 25 of Arms Act were deleted later on.

2. Brief facts relevant for the purpose of disposal of the present petition are that the aforementioned FIR had been registered on the basis of complaint lodged by the prosecutrix-‘S’(name withheld) alleging therein that she had become acquainted with the petitioner some time back. He had come to her house in July 2022, and on the pretext of taking her to some religious trips, he had made her to accompany him and then by showing pistol and

extending threats to her, he had committed rape upon her. He disclosed to her that he had made her obscene videos and started exploiting her by giving threats to make the same viral. By taking advantage of the fact that the prosecutrix had remained quiet, he had started exploiting her by taking her to different places and repeatedly ravishing her. She used to be pressurized by him to accompany him to different places. On 19.10.2022, he had sent a message to her thereby, raising demand of money and tried to extort money from her, due to which, she was compelled to report the matter to the Police. During the course of investigation, the prosecutrix recorded her statement under Section 164 of Cr.P.C. The petitioner was arrested on 29.01.2023. Offences under Section 25 of Arms Act and Section 34 of IPC were deleted. Challan was presented and presently, he is facing trial for commission of offences punishable under Section 376(2)(n) of IPC.

3. The present petition has been filed by the petitioner on the ground and it is argued by his counsel that he has been falsely implicated in this case. In fact, the prosecutrix is in the habit of involving innocent persons in honey trap and thereby, extorting money by lodging false cases of rape against them. In para No.3 of the petition, the FIR numbers and other details of four such cases which had been lodged by the prosecutrix against other persons by levelling similar like allegations, have been given. It is submitted that there is inordinate and unexplained delay in lodging of the FIR. There is no medical evidence on record to connect the petitioner with the subject crime. There are vague allegations against the petitioner. The entire prosecution version is unnatural, improbable and untrustworthy. He is in custody since 29.01.2023. His custodial interrogation is no more required. No recovery is to be effected from him. Trial will take long time and no useful purpose would be served by

keeping him behind the bars any more. Therefore, it is argued that the petitioner deserves to be given benefit of bail.

4. The petition has been resisted by the learned State counsel in terms of the status report filed by him. It is submitted therein and it is argued by him that there are serious allegations against the petitioner. He had suffered disclosure statement admitting his involvement in the subject crime. The trial is being expedited and there is nothing on record to show that there would be undue delay in conclusion of the same. The mobile phone of the petitioner has been sent to Forensic Laboratory for analysis and the report is still awaited. Record had been collected from the hotels wherein, the prosecutrix had been taken by the petitioner and the same has established the involvement of the petitioner with the subject crime. Therefore, it is argued that the petition does not deserve to be allowed.

5. I have heard learned counsel for the parties at a considerable length and have carefully gone through the record.

6. As per the allegations, the petitioner had repeatedly ravished the victim in the year 2022, had threatened her to make her videos viral and also tried to extort money. In the FIR, the prosecutrix also levelled an allegation that there was promise on the part of the petitioner to marry her. The prosecutrix is a 40 years old married female. It is not her version that she was divorced from her husband., As such, it is difficult to believe that she had permitted the petitioner to have physical relations with her due to misconception of any fact as she herself was not in a position to perform marriage with her. It is a debatable question in this case as to whether it is a case of consent or of rape. Though, at the stage of considering, a plea for grant of bail, it is not appropriate or feasible for the Court to draw any conclusion,

much less to return any finding that as to whether the petitioner had subjected the prosecutrix to maintain physical relationship with him on the pretext of performing marriage or he had committed forcible acts of having sexual relations with her without her consent and though, this is not the stage when this Court can record a finding on this point as such finding must await a thorough assessment and evaluation of evidence to be led by the parties at the trial. However, in the present case, there appears to be no cavil that the prosecutrix has history of lodging FIRs containing similar allegations as in the present case against different persons. Annexures P-2 to P-6 are copies of some of those FIRs as annexed by the petitioner which raise a question as to the authenticity of the version of the prosecutrix in this case as well. Keeping in view these circumstances and upon a conspectus of the foregoing consideration, this Court is inclined to hold that the petitioner deserves to be extended benefit of bail.

7. Accordingly, the petition is allowed and the petitioner is ordered to be admitted to bail subject to furnishing personal/surety bonds to the satisfaction of learned trial Court; and further, subject to the condition that he will not contact, visit or offer any inducement or threat or promise of the prosecutrix or any other witness or person(s) acquainted with the facts of the case. He shall not temper with the evidence and will not indulge in any act or omission i.e. unlawful or would prejudice the proceedings pending in the trial; and more specifically, he shall neither contact, nor interact, whether directly or indirectly, with the prosecutrix or her family in any manner what so ever.

8. Needless to mention that nothing observed, hereinabove, would reflect, on the merits of the case, in any manner as the same has been recorded for the limited purpose of deciding the present petition for regular bail.

9. Since main case is decided, pending application if any, also stands disposed of.

06.03.2024
Jyoti-IV

(MANISHA BATRA)
JUDGE

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