

219 IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-60679-2023 (O&M)
Date of decision: 13th March, 2024

Dhanesh

...Petitioner(s)

Versus

State of Haryana

...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. B.B. Chaudhary, Advocate for the petitioner.
Mr. Neeraj Poswal, A.A.G., Haryana.

MANISHA BATRA, J (ORAL):-

The present petition has been filed under Section 439 of Cr.P.C.
seeking regular bail in FIR mentioned below:-

FIR No.	Police Station	Sections
232	Sector 5, Panchkula	323, 354, 376 and 509 of Indian Penal Code, 1860 (for short ‘IPC’)

2. Brief facts of the case relevant for the purpose of disposal of present petition are that the aforementioned FIR had been registered on 27.07.2023 on the basis of written complaint submitted by the complainant ‘S’ (name withheld) made allegations of her being physically assaulted, her modesty being outraged and being subjected to rape and insult at the hands of the present petitioner. During investigation, the petitioner was arrested on 28.07.2023. Investigation has since been completed. Challan has been presented. He is facing trial for the commission of the aforementioned

offences.

3. The present petition has been filed by the petitioner on the grounds and it is argued by his counsel that the prosecutrix has not implicated the petitioner in the commission of the offences punishable under Sections 354, 376 and 509 of IPC and only allegations which have been levelled against him by the prosecutrix in her sworn deposition is that she had sustained some injuries due to the fact that the petitioner had pushed her and she had fallen down on the ground on 26.07.2023. It is argued that trial is likely to take time. Further incarceration of the petitioner would not serve any useful purpose. It is, therefore, urged that the petitioner deserves to be given concession of bail.

4. Status report has been filed by respondent No.1-State, wherein, it is alleged that there are serious allegations against the petitioner. However, learned counsel for respondent-State has admitted the fact that the prosecutrix has not involved the petitioner in commission of offences punishable under Sections 354, 376 and 509 of IPC.

5. I have heard learned counsel for the petitioner as well as learned State counsel at considerable length and have gone through the record carefully.

6. Copy of sworn deposition of the prosecutrix as recorded before the learned trial Court has been placed on record, which shows that the only allegations which have been levelled by the prosecutrix against the present petitioner was that on the fateful day, she had a fight with him due to which the petitioner had pushed her on the ground and she had sustained some

injuries. She is shown to have been turned hostile and was even allowed to be cross-examined by learned State counsel, but she has maintained the same stand. Keeping in view the nature of the testimony of the prosecutrix who is the star witness which has come on record, the period spent by the petitioner in custody and the other facts and circumstances of the case, I am of the considered opinion that the petition deserves to be allowed. Accordingly, the same is allowed and the petitioner is ordered to be released on bail subject to his furnishing personal/surety bonds to the satisfaction of the Chief Judicial Magistrate/ Duty Magistrate concerned.

7. It is clarified that observations made hereinabove shall not be construed as an expression of opinion on the merits of the case.
8. Since the main case has been disposed of, pending application if any is rendered infructuous.

[MANISHA BATRA]

JUDGE

13th March, 2024

Parveen Sharma

1. Whether speaking/ reasoned

:

Yes / No
2. Whether reportable

:

Yes / No