



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

315

CRM-M-57892-2024

Date of decision: 22<sup>nd</sup> January, 2025

Sureshanand

...Petitioner

Versus

State of Haryana

...Respondent

**CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA**

Present: Mr. R.S. Randhawa, Advocate for the petitioner.

Mr. Neeraj Poswal, AAG, Haryana.

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**MANISHA BATRA, J (ORAL):-**

The instant one is the second petition for grant of regular bail in case arising out of FIR No. 3 dated 04.01.2023 registered under Sections 376(2)(n), 323, 328 and 506 of IPC at Police Station Women Central (earlier Police Station Old Faridabad 5024/Women PS Faridabad) District Faridabad, Haryana. His previous bail petition bearing CRM-M-11142-2024 was dismissed by this Court vide order dated 15.05.2024.

2. The petitioner has been facing trial for commission of aforementioned offences on the allegations that he had induced the prosecutrix to maintain physical relations with him by giving false promise to marry and had been exploiting her on that pretext since 05.07.2022. At the very first instance, he had forcibly committed act of rape upon her. He was arrested on 25.01.2023.

3. The present petition has been filed by the petitioner on the



grounds and it is argued by his counsel that a period of more than eight months has passed from the date when his previous petition of bail, had been dismissed by this Court and even otherwise, he is in custody for a period of about two years. Infact, it was a case of consensual relationship between the prosecutrix and himself. The extended period of his incarceration is a ground for extending benefit of bail to the petitioner. The prosecutrix stands examined and her testimony proves that relationship between the parties was purely consensual. It is therefore, argued that he deserves to be extended benefit of bail. To fortify his arguments, learned counsel for the petitioner has placed reliance upon the authority cited as ***‘Prashant Vs. State of NCT of Delhi, 2024 INSC 879’***

4. No status report has been filed. However, learned State counsel has argued that there are serious allegations against the petitioner. His previous petition was dismissed on merits. All the contentions which have been raised by the petitioner had already been taken into consideration at that time. It is submitted that there is no substantial change in the circumstances. Mere extended period of incarceration is not a ground to extend benefit of bail to the petitioner. Therefore, it is urged that the petition does not deserve to be allowed.

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. The petitioner is alleged to have subjected the prosecutrix to rape by inducing her on the pretext of performing marriage with her while knowing that he himself was an already married person. The promise so



made by him was false. While passing the order dated 15.05.2024 in **CRM-M-11142-2024**, certain observations were made by this Court. The relevant may be reproduced as under:-

*“7. It has also come on record that the parties had even stayed together for some time. The petitioner has placed on record some photographs showing them to be intimate position and even showing the prosecutrix with his family members in some of the photographs. He himself has brought on record Annexure P/2, which is copy of Whatsapp chat, shown to have taken place between them during the month of December, 2022, wherein the prosecutrix is shown to be asking him as to why he refused to marry her. These chats rather show that the petitioner had in fact given a promise to marry the prosecutrix and are prima facie sufficient to show that he had been ravishing the prosecutrix on the said pretext, despite knowing that he was already a married person. Though the prosecutrix is an adult female, aged about 39 years, however, in view of the allegations as levelled in the FIR, it cannot be stated at this stage that it was a case of consensual relationship and there was no promise to marry on the part of the petitioner. The sexual relationship is alleged to have been developed by the petitioner with the prosecutrix by making a false promise to marry her, while fully knowing that he himself was a married person. Therefore, it cannot be stated that the consent for sexual acts as given by the prosecutrix to the petitioner was not by way of*



*misconception of fact arising out of a promise to marry. At the stage of considering a plea for grant of bail, it is not proper nor feasible for the Court to draw any conclusion much less to return any finding as to the nature of relationship between the parties because such decision must await a thorough assessment and evaluation of evidence led by the parties at trial.”*

7. It is clear from a reading of the above that all the contentions which have been raised by the petitioner now had been taken into consideration while deciding the previous petition. The petitioner’s counsel has not been able to point out any substantive change in the circumstances. In ***Prashant’s case (supra)***, an FIR lodged under Section 376(2)(n) and 506 of IPC was ordered to be quashed by Hon’ble Supreme Court by observing that the prosecutrix and the appellant were in consensual relationship and the prosecutrix was aware of the consequences of her actions, whereas, in the instant case, this fact is yet to be determined on the basis of evidence to be produced on record. The allegations against the petitioner are serious in nature. It is well settled proposition of law that when successive bail petitions come before a Court, it should be very cautious while considering the same. Successive bail petitions can be entertained by the Court when some substantial change is established by the accused, thereby making him entitled for grant of bail. Reference in this regard can be made to ‘***State of Maharashtra Vs. Captain Buddhikota Subha Rao, AIR 1989 Supreme Court, 2292***, wherein it was observed so and it was further held that the Court should not pass an order of release of an accused on bail in successive



bail application merely establishing some cosmetic change between time gap of two successive applications. There must be some drastic change during the period between two applications. Reference can also be made to *Kalyan Chandra sarkar vs. Rajesh Ranjan @ Pappu Yadav and another (2004) 7 SCC 528*, wherein it was observed by Hon’ble Supreme Court that where the offence alleged against an accused is grave, bail cannot be granted only on the ground of long incarceration. Moreso, the mere prolonged period of incarceration or hostile statement of one of the material witnesses is also not a ground to extend benefit of regular bail. The allegations against the petitioner are grave in nature. The trial is going on at a proper pace and there is nothing to assume that there would be any undue delay in conclusion of the same. As such, in my considered opinion, it is not a fit case to enlarge the petitioner on bail. Accordingly, finding no ground to allow the petition, the same is dismissed.

8. It is, however, clarified that the observations made hereinabove shall not be construed as an expression of opinion on the merits of the case.

9. Since the main petition has been dismissed, pending application, if any, is rendered infructuous.

[MANISHA BATRA]  
JUDGE

22<sup>nd</sup> January, 2025  
Parveen Sharma

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|-------------------------------|---|----------|
| 1. Whether speaking/ reasoned | : | Yes / No |
| 2. Whether reportable         | : | Yes / No |