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

(203)

CRM-M-5917-2024
Date of decision:- 31.01.2025

Parveen

... Petitioner

Versus

State of Haryana and another

... Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Shivam Grover, Advocate
for the petitioner.

Mr. Rajbir Singh, DAG, Haryana
for the State-respondent No.1.

Ms. Meenakshi Thakur, Advocate for
Mr. Ishaan Bhardwaj, Advocate
for the complainant-respondent No.2.

SUVIR SEHGAL, J. (ORAL)

1. This is the first petition filed under Section 439, Cr.P.C. seeking grant of post-arrest bail in:-

FIR No.	Dated	Police Station	Sections
240	30.04.2022	Civil Line, Sonipat	34, 376, 406 and 506 IPC

2. Case of the prosecution is that FIR, Annexure P-11, has been registered on the statement of a married lady (for short "the prosecutrix") on the allegation that her neighbour, Nishu, told her that her husband Parveen, present petitioner, is a *tantrik baba* and can help her conceive the second child. It has been alleged that the petitioner made the prosecutrix

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perform various rituals as also instigated her against her husband and family members. He fleeced and sexually assaulted her under the guise of saving her husband's life. He told her not to confide in anyone as her family may get killed. Specific instances of rape in August, 2020, on 02.04.2022 and 18.04.2022 have been levelled against the petitioner. By threatening, petitioner extracted a huge amount of money and valuables from her. Prosecutrix took her husband into confidence on 20.04.2022, who confronted the accused, instead, the accused intimidated them.

3. Counsel for the petitioner has argued that the petitioner has been falsely implicated as there was some financial dispute between the parties, who are neighbours. He states that the prosecutrix is a 24 years old educated lady, who was working in a Clinic and the entire story set up by the prosecution is highly improbable. He urges that there are various inconsistencies in the version of the prosecutrix and as both the material witnesses, i.e., the prosecutrix and her husband, have been examined, petitioner, who is in custody since 16.08.2022, deserves to be enlarged on bail.

4. *Per contra*, learned State counsel, who is assisted by counsel for the complainant-respondent No.2, has opposed the petition and has filed a Custody Certificate dated 30.01.2025, which is taken on record. It has been argued that serious allegation has been levelled against the petitioner, who took advantage of the innocence of the prosecutrix and sexually exploited her. By making a reference to the status report filed by the State, State counsel asserts that a recovery of Rs.4,000/- has been effected from the



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petitioner, who was medically examined and the Medical Officer has opined that there is nothing to suggest that the petitioner is incapable of performing sexual intercourse. On a specific query, State counsel has apprised the Court that three out of nineteen prosecution witnesses, including the material witnesses, have been examined.

5. I have heard counsel for the parties and considered their respective submissions.

6. The veracity of the allegations levelled against the petitioner would be examined by the Trial Court on the basis of the ocular and documentary evidence produced by the prosecution. Petitioner has been in incarceration for the last almost 2½ years and the trial is nowhere near conclusion. Vital prosecution witnesses have been examined and there is no possibility that the petitioner can influence them. In view of the above facts and circumstances, this Court is of the view that the petitioner has made out a case for grant of regular bail.

7. Without adverting to the merits or demerits of the arguments addressed by counsel for the parties, petition is allowed. Petitioner is ordered to be released on bail on furnishing adequate bail/surety bonds to the satisfaction of the Area Magistrate/Duty Magistrate/Trial Court concerned.

8. As the petitioner is a neighbour of the prosecutrix, it is ordered that as long as the trial is continuing, petitioner shall maintain his residence in some other locality and shall furnish an affidavit to this effect before the Trial Court. In case of breach of this condition, State shall be at liberty to

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seek cancellation of bail.

9. Nothing said hereinabove shall be construed to be an expression of opinion on the merits of the case.

(SUVIR SEHGAL)
JUDGE

31.01.2025

Kamal

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No