

**IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA**

**Cr.M.P.(M) No: 884 of 2007**

**Order reserved on: 8.1.2008**

**Date of decision: 11.1.2008**

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**Ganesh Dutt and others**

**..Appellants**

**Versus**

**State of H.P.**

**..Respondent**

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***Coram***

**The Hon'ble Mr. Justice Deepak Gupta, Judge.**

***Whether approved for reporting?*<sup>1</sup>**

**For the Petitioner: S/Sh Bhupender Ahuja and Chaman Negi,  
Advocates**

**For the Respondent: Mr. J.S.Guleria, Law Officer**

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**Deepak Gupta, J. (Oral)**

The petitioners have filed this petition for grant of bail under Section 439 Cr.P.C. FIR No. 22 of 2007 has been registered at Police Station, Rajgarh against the petitioners under Sections 363/366/376/120-B IPC.

The brief facts relevant for decision of the bail application are that according to the prosecutrix, she had gone to Rajgarh to sell milk on 1.3.2007. She, after alighting from bus at about 10.30 a.m. was walking

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<sup>1</sup> ***Whether the reporters of the local papers may be allowed to see the Judgment?***

towards hospital. It was raining at that time. A Maruti Van followed her and stopped beside her on the road side. 4 persons were sitting in the Maruti Van including the petitioner, Subhash. One of the petitioners, namely Ganesh Dutt allegedly pulled her from arm and forcibly made her sit in the van. Thereafter the vehicle was taken towards Habban. Since there was snow on the road to Habban, the vehicle returned towards Rajgarh and was then taken to Solan where two other persons boarded the vehicle.

The prosecutrix alleges that thereafter she was taken to Tauni Devi Temple in Hamirpur district and she was married to Rakesh Kumar after she was threatened with dire consequences. Thereafter Rakesh Kumar subjected her to forcible sexual intercourse against her will. Finally she got the matter reported to police through one Banti.

Learned counsel for the petitioners has urged that the investigation in the case is complete and the custody of the petitioners is not required. It is also urged that the petitioners have been falsely implicated in the case. According to the learned counsel for the petitioners the prosecutrix is more than 18 years of age and it is

apparent that she was a consenting party since she could not have moved to various places without her consent.

After hearing the learned counsel for the parties and going through the record, I am of the considered view that keeping in view the nature of the offences and the allegations of the prosecutrix it would not be appropriate for me to comment on the merits of the case at this stage, especially when the same has already been listed for evidence of the prosecution in this month itself. The learned Additional Sessions Judge, Sirmour by a well reasoned order has rejected the bail application of the petitioners. I find no reason to disagree with the same. The case is already at the evidence stage. The offence with which the accused are charged is heinous in nature. Keeping in view all these circumstances, the bail petition is rejected.

January 11, 2008(K)

( Deepak Gupta ), J.