

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M-15069 of 2015

Date of Decision : 08.05.2015

Ravinder Kumar

.....Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE R.P. NAGRATH

Present: Mr. P.R. Yadav, Advocate
for the petitioner.

R.P. Nagrath, J.

Prayer in the instant petition is made for grant of pre-arrest bail under Section 438 Cr.P.C. in FIR No. 346 dated 19.11.2006 for offences under Sections 363, 366, 376 and 120-B of Indian Penal Code (IPC), registered at Police Station Rajendra Park, Sector 5, Gurgaon.

2. I have heard learned counsel for the petitioner, perused the paper-book and find no substance in the present application.

3. The bone of contention of learned counsel for the petitioner was that the prosecutrix was about 18 years old and she was having an affair with the petitioner and on her asking the marriage between them was also solemnized. CWP No. 70298 of 2006 was jointly filed by the petitioner and the prosecutrix in the High Court of judicature at Allahabad and both of them appeared on 21.12.2006 and made statement that they are major and solemnized marriage on 10.11.2006. Annexure P-2 is the order passed by the Allahabad High Court, directing the respondents therein not to harass

or arrest the petitioners. It was further contended that four of the accused faced trial in the instant FIR in the Sessions Court at Gurgaon and the parents of the petitioner, his paternal uncle and aunt stood acquitted of the charges framed against them on 20.04.2009. Copy of the judgment is Annexure P-3. It was further contended that the date of birth of prosecutrix as per school certificate is 29.11.1988 and on the date of alleged occurrence i.e. 09.11.2006 she was only a few days less than 18 years. It was also urged that the petitioner did his 10+2 in 2010 and has since qualified as B. Tech. Engineer in 2014.

4. Learned counsel for the petitioner further contended that the Additional Sessions Judge while declining bail application has observed that the petitioner was a proclaimed offender whereas he was in fact not so declared. The petitioner himself was less than 16 years old on the date of occurrence. As per the order of Additional Sessions Judge dated 04.04.2015 it was observed that the record does not reveal that the petitioner was declared a proclaimed offender. Learned Additional Sessions Judge observed that the facts as stated in the application for bail were not disputed but it was stated that on 06.06.2008, the petitioner was declared a proclaimed offender and a supplementary challan was also presented.

5. The judgment of the trial Court dated 20.04.2009 (Annexure P-3) titled "State vs. Hari Singh and others" whereby four of the accused were acquitted would show that the prosecutrix made a categorical statement about the petitioners and his co-accused, namely; Raju and Manish having kidnapped her to Rewari and from

there she was taken to Bhopal in a semi unconscious state under the effect of some intoxicant. She was kept there in a room by these three persons who committed sexual intercourse with her forcibly. The petitioner as well as Raju and Manish had not faced the trial. Therefore, I am of the view that even if the factum of the petitioner being declared a proclaimed offender is a debatable issue that would not help the petitioner in seeking concession of pre-arrest bail as he had been avoiding arrest for more than eight years in the FIR registered on 19.11.2006. It cannot be contended that the petitioner did not come to know about the said FIR against him as his parents and his paternal uncle and aunt faced trial in the said case.

6. Looking into the aforesaid facts and the allegations which are quite serious, the petitioner does not deserve the concession of pre-arrest bail.

Dismissed.

May 08, 2015
jk

(R.P. NAGRATH)
JUDGE