

IN THE HIGH COURT OF PUNJAB AND HARYANA CHANDIGARH

CRM-M-6424-2015

Decided on: 03.03.2015

AmirPetitioner

Versus

State of HaryanaRespondent

CORAM HON'BLE MR. JUSTICE MAHESH GROVER

Present: Mr.Kunal Dawar, Advocate for the petitioner.

Mr. R.S.Chauhan, Addl. AG, Haryana,

MAHESH GROVER, J (ORAL)

The petitioner namely Amir son of Sayeed prays for concession of the bail in terms of Section 439 of the Code of Criminal Procedure (hereinafter 'Cr.P.C') in a case registered vide FIR No.351 dated 24.05.2014, under Sections 376, 354, 342, 506/34 IPC and Section 6 of POCSO Act, P.S.Nuh, District Mewat, Haryana.

Allegations against the petitioner are at the behest of the complainant, the prosecutrix, who stated that on 12.05.2014 when she was returning from school then Amir son of Shaheed, Gariba son of Hasnu, Shahrukh son of Idrish, Farukh son of Sahabu, Amir son of Yunus and Sajid son of Majid caught hold of her forcibly and took her to a room where Amir son of Shaheed and Shahrukh son of Idrish were also sitting. After bolting

the door, Amir and Shahrukh gagged her mouth and forced himself upon her. Shahrukh was having a knife and he threatened her in case the incident was revealed to anyone. Upon this, she fainted and on regaining the consciousness, she was retained in the room and returned after 5/6 days to disclose this fact to her family members. In the statement recorded under Section 164 Cr.P.C, she did not name the accused persons but merely referred to them as boys who forcibly took her to a room and subjected her to rape.

In the statement recorded before the trial Court, the prosecutrix initially named Amir as one of the rapist but in cross examination retracted her stand. In her examination-in-chief, she specifically mentioned Shahrukh as the person who had committed rape on her.

In view of the above, learned counsel for the petitioner contends that there is inconsistency in the statements of the prosecutrix and besides all the other persons except the petitioner have been found to be innocent during the course of investigation. It is further stated that the petitioner is in custody since May 2014.

Learned counsel for the respondent, on the other hand, would refer to the seriousness of the allegations to contest the claim of the petitioner.

After due consideration of the matter and noticing the fact that the petitioner is in custody since May 2014 and the trial is likely to take some time, I would, without commenting upon the aspects pointed out by the petitioner and the inconsistency of the prosecutrix, deem it appropriate to accept the petition and direct the petitioner to be released on bail in terms of Section 439 Cr.P.C.

Bail to the satisfaction of learned trial Court.

03.03.2015
mamta

(MAHESH GROVER)
JUDGE