

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Crl. Misc. No. M-10556 of 2016

DATE OF DECISION: 08.04.2016

Yogesh @ Munna

.....Petitioner

Versus

State of Haryana

.....Respondent

BEFORE:- HON'BLE MRS. JUSTICE DAYA CHAUDHARY

1. **Whether reporters of local newspaper may be allowed to see judgment? (Yes/No)**
2. **To be referred to reporters or not? (Yes/No)**
3. **Whether the judgment should be reported in the Digest? (Yes/No)**

Present:- Mr. Manoj K. Tanwar, Advocate
for the petitioner.

Mr. Sanjay Kumar Saini, AAG, Haryana.

DAYA CHAUDHARY, J.

The present petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case FIR No. 115 dated 14.5.2014 registered under Sections 363,366-A,354-A,376,120-B IPC and Section 4 of POCSO Act at Police Station Nangal Chaudhary, District Mohindergarh, Haryana.

Learned counsel for the petitioner contends that as per allegations in the FIR, co-accused-Naresh and Sunil committed rape upon the victim and the victim travelled at different places along with them. Even in the statement of the victim recorded under Section 164 Cr.P.C. as well as in the statement of PW-7, there was no allegation of kidnapping and commission of rape against the petitioner. Main accused, namely, Naresh and Sunil were declared innocent during investigation but now they have

been summoned under Section 319 Cr.P.C. Learned counsel further contends that main accused-Naresh has already been released on anticipatory bail and the case of the petitioner is on better footing viz-a-viz co-accused Aman and Anif, who have already been released on regular bail. Learned counsel also contends that the petitioner is in custody since 18.6.2014 and after allowing of an application under Section 319 Cr.P.C., it would be a case of de novo trial and no purpose would be served by keeping the petitioner behind the bars.

Learned counsel for the respondent-State has not disputed the factum of releasing of co-accused on bail and also of allowing an application under Section 319 Cr.P.C.

Keeping in view the submissions made by learned counsel for the petitioner and also the fact that the petitioner is in custody since 18.6.2014; co-accused of the petitioner, namely, Anif and Aman have been released on regular bail and trial of the case may take long time to conclude as after allowing of an application under Section 319 Cr.P.C., it would be a case of de novo trial, the present petition is allowed. Petitioner-Yogesh @ Munna is directed to be released on regular bail subject to his furnishing bail/surety bonds to the satisfaction of trial Court.

April 08, 2016
pooja

(DAYA CHAUDHARY)
JUDGE