

**IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH**

1. CRM-M-23404-2017

Naresh Kumar

...Petitioner

Versus

State of Haryana

...Respondent

2. CRM-M-31642-2017

Harvinder Singh

...Petitioner

Versus

State of Haryana

...Respondent

Date of decision: 07.10.2017

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Pawan Kumar, Sr. Advocate with
Mr. Rozer Kumar Aggarwal, Advocate
for the petitioner in CRM-M-23404-2017.

Mr. H. S. Dhandi, Advocate &
Mr. R. S. Mamli, Advocate
for the petitioner in CRM-M-31642-2017.

Mr. P. P. Chahar, DAG, Haryana.

JAISHREE THAKUR, J. (Oral)

This common order shall dispose of above noted two petitions
as they arise from the same FIR.

These petitions have been filed under Section 439 of the Code
of Criminal Procedure for grant of regular bail to the petitioners herein
pending trial in case FIR No. 75 dated 03.09.2016, under Sections 294, 328,
506, 120-B, 354 of the IPC and Sections 3, 4, 7 and 8 of the POCSO Act,

registered at Women Police Station, Ambala.

Learned Senior Counsel, assisted by Mr. Rozer Kumar Aggarwal, Advocate and learned counsel, appearing for the petitioner in CRM-M-31642-2017, *inter alia*, alleged that there is an inordinate delay of almost two years in lodging of the FIR and the co-accused have already been granted bail. It is also contended that co-accused Vimal and Sahil were found innocent though they were named by the prosecutrix in her statement. It is also contended that earlier the prosecutrix has resiled from her statement and it was only on account of the pressure put upon her that she changed her statement. There is discrepancy in the statements that have been recorded from time to time. It is further contended that during the investigation, obscene photographs and video clips, as alleged by the prosecutrix, have also not been recovered by the Investigation Officer. It is also contended that the petitioners have been in custody since September, 2016 and the investigation in this matter qua the petitioners is complete. It is also submitted that the trial is likely to take some time to conclude as the two persons, who were put in Column No. 2 i.e. Vimal and Sahil, have now been summoned under Section 319 Cr.P.C. which would mean that the trial is to start afresh. It is prayed that since the trial is likely to take some time to conclude, the petitioners should be enlarged on regular bail.

Per contra, learned counsel for the respondent-State opposes the grant of regular bail to the petitioners herein by contending that there are specific allegations regarding the offence of rape having been committed upon the prosecutrix. However, he is not able to deny the fact that trial is likely to take some time on account of two additional accused having been summoned under Section 319 Cr.P.C. He is also unable to controvert the

fact that investigation qua the petitioners herein is complete.

I have heard learned counsel for the parties and in view of the fact that the trial is likely to take some time to conclude and the investigation qua the petitioners is complete, these petitions are allowed. The petitioners are ordered to be released on regular bail on their furnishing **heavy surety** to the satisfaction of the trial Court/Duty Magistrate concerned. Moreover, they shall not approach the prosecutrix or any of the witnesses. In case, it is found that petitioners are violating the order, the State and the prosecutrix are at liberty to approach this Court for cancellation of the regular bail granted today.

Any opinion expressed herein is for the purpose of grant of regular bail and not an opinion on the merits of the case.

07.10.2017

Ansari

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No