

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

CRM-M-32194-2018

Date of decision:- 13.9.2018

Deepak

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR.JUSTICE H.S. MADAAN

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

Mr.Neeraj Poswal, AAG, Haryana.

H.S. MADAAN, J. (Oral)

This petition has been filed for the grant of regular bail to the petitioner – Deepak, an accused in FIR No.268 dated 31.5.2018, under Sections 363, 366-A, 506, 368 IPC, Section 4 and Section 17 of POCSO Act, added later on and Section 3 of SC & ST Act, registered at Police Station Mohindergarh, District Mohindergarh.

Briefly stated, the facts of the case as per the prosecution story, are that the prosecutrix aged about 16 years daughter of Ved Parkash, resident of village Palri Manihara, a student of 10th class used to go to Mohindergarh for tuition classes and on 29.5.2018 when she reached near Rao Tula Ram Chowk for that purpose, the driver of auto rickshaw in

which she was travelling refused to go ahead, as such, she alighted from the auto rickshaw; she observed Kuldeep son of Samunder, a resident of her locality standing at Rao tula Ram Chowk having a motorcycle; he offered to drop the prosecutrix at her tuition centre; the prosecutrix accordingly sat on the motorcycle and Kuldeep took her to a hotel in the remote area instead of tuition centre; when the prosecutrix inquired from him as to why he had brought her to a hotel, such accused threatened to kill her if she offered any resistance; thereafter, accused Kuldeep took the prosecutrix to a room in the hotel and committed rape upon her; then she was taken to the fields and accused had sexual intercourse with her again in a tin shed room at night; on the next day, accused brought her to Rewari dropping her at bus-stand. Since the prosecutrix was in state of shock, she went to the house of her maternal grandmother and narrated the entire incident to her, who took her to Police Station Mohindregarh and on statement of prosecutrix, formal FIR was registered. The investigation in the case started. The prosecutrix was got medico legally examined from Government Hospital, Mohindergarh. Her statement was got recorded under Section 164 Cr.P.C. from Illaqa Magistrate. Accused Kuldeep was arrested in this case on 2.6.2018. He was also got medically examined. He had suffered a disclosure statement during the course of his interrogation. The petitioner/accused Deepak was also arrested in this case on 6.6.2018 being Manager of the hotel, where rape had been committed upon the prosecutrix by accused Kuldeep. An offence under Section 368 IPC had been added. He had moved an application for regular bail in Court of Sessions at Narnaul but was unsuccessful as the same was dismissed vide

order dated 16.7.2018 passed by learned Additional Sessions Judge, Narnaul, as such, he has approached this Court for grant of similar relief.

Notice of the petition was given to the State and State counsel has put in appearance.

I have heard learned counsel for the petitioner and learned State counsel besides going through the record.

Learned counsel for the petitioner has contended that the prosecutrix and main accused Kuldeep had a love affair and on 29.5.2018 both of them went to a hotel, where they stayed for some time and had sex; that on coming to know about the incident, the family members of the prosecutrix had lodged an FIR after two days against accused Kuldeep on 31.5.2018; that as a matter of fact the petitioner does not have any connection with the hotel in question, which in fact is being owned by Mahender Singh son of Sh.Jai Karan, resident of Riwasa, District Mohindergarh; that said Mahender Singh prepared a false rent deed in terms of which petitioner is shown as tenant in the hotel; that as a matter of fact, the petitioner was not there at the spot and had rather gone to Gurgaon for delivery of a new car from Hyundai agency; that he had purchased a new car in the name of his mother from Ambala and the vehicle was handed over by the agency at IFFCO Chowk, Gurgaon on 29.5.2018 as there was sub agency of the main agency of Ambala, the delivery report of the vehicle has been attached. It is further submitted that the petitioner is aged about 21 years and has nothing to do with the offence.

Learned State counsel controverted these contentions stating

that the petitioner being Manager of the hotel had provided a place to co-accused Kuldeep Singh to have sexual intercourse with the victim, as such committing a very heinous crime for which, he does not deserve any leniency, therefore petition filed by him be dismissed.

After hearing the rival contentions, I find that even if the prosecution story is taken as such that the petitioner had provided accommodation to the prosecutrix and Kuldeep in his hotel, there are no allegations that he had conspired with the main accused in kidnapping of the prosecutrix or committing rape upon her. Even otherwise his guilt shall be determined during the trial, the conclusion of which is likely to take some time. He is behind the bars since 6.6.2018, therefore he deserves to be granted bail.

Accordingly, the petition is allowed. The petitioner be admitted to bail during the pendency of the trial, subject to his furnishing bail bonds and surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate, Narnaul, subject to the following conditions:

- (i) he shall appear in the Court on each and every date of hearing;
- (ii) he shall not give any threat or intimidation to the prosecution witnesses; and
- (iii) he shall not leave India without prior permission of the Court and shall surrender his passport, if he has got one, otherwise to furnish affidavit in that regard.

In addition to that the trial Court may impose any term and condition found suitable to ensure that the petitioner does not abscond and

interfere in the trial.

In case the petitioner violates any term and condition on which the bail has been granted to him, the prosecution would be entitled to apply for cancellation of bail.

13.9.2018

Brij

(H.S. MADAAN)

JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No