

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

CRM-M-49379-2017

Date of decision:-4.10.2018

Arun

...Petitioner

Versus

State of Haryana

...Respondent

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

Present: Mr.J.S. Saneta, Advocate
for the petitioner.

Mr.Neeraj Poswal, AAG, Haryana.

H.S. MADAAN, J.

This petition for regular bail has been filed by petitioner –
Arun – an accused in FIR No.34 dated 15.5.2017, under Sections 323,
376, 506, 34 IPC, registered with Police Station Women, Panipat, District
Panipat.

Briefly stated, the facts of the case, as per the prosecution
story are that on 14.5.2017 at about 11:00 a.m. daughter of Nasirudeen,
resident of Batra Colony, Kacha Camp, Panipat (name withheld to protect
her identity in view of Section 228-A IPC and as per the directions given
by the Hon'ble Apex Court in case titled State of Karnataka Vs.
Puttaraja, 2004(1) RCR(Cri.) Supreme Court, 113 (SC) and referred to as

the prosecutrix) doing the work of stitching clothes had gone in the neighbourhood to get her stitching charges, where accused Arun residing in the neighbourhood was standing and finding the prosecutrix alone in the street, he pulled her inside his room, gagged her mouth and committed rape on her. Further, he threatened the prosecutrix that in case she disclosed the incident to any other person, then he would kill her. The prosecutrix was terrified and did not make mention of the incident to any one on that very day, however, on the next day when her maternal aunt came to their house, then she narrated the whole incident to her and thereafter, her mother accompanied by her maternal aunt went to the house of Arun, where accused Arun and his two friends gave beatings to them and later on in order to save themselves, they called the police and levelled allegations against the prosecutrix, her mother and maternal aunt and by showing it a case of quarrel, got the matter compromised.

On the basis of such written complaint of the prosecutrix, formal FIR was recorded. Accused was arrested in this case on 21.8.2017 and he is in custody. After completion of investigation and other formalities, challan was filed against the accused. The petitioner/accused had filed an application for regular bail in the Court of Sessions, which was declined by learned Additional Sessions Judge/Special Judge, Panipat vide order dated 7.11.2017, as such, he has approached this Court with the same request.

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

I have heard learned counsel for the parties besides going

through the record.

Learned counsel for the petitioner has contended that the allegations in the FIR are wrong; that the incident was not reported to the police promptly; the version set up by the prosecutrix is highly improbable, therefore, the petitioner be granted concession of regular bail more particularly when statements of the prosecutrix and her mother have already been recorded.

Whereas, the request be being opposed by the learned State counsel vehemently contending that accused has committed a very grave and serious offence and if released on bail, there are fair chances of his absconding and trying to tamper with the prosecution evidence.

After hearing the rival contentions, I find that the trial against the accused is going on, which is likely to be concluded in near future. His culpability shall be determined during the trial. While deciding the question of grant or refusal the regular bail, the merits of the case are not to be perused minutely. As per the allegations, the very fact that on the basis of allegations levelled by the complainant, formal FIR was registered, on completion of investigation, merit was found in such allegations, resultantly accused was challaned and formal charge has been framed against him and he is facing trial, points out that the prosecution story cannot be discarded lightly. The apprehension expressed by the State counsel that if petitioner is granted bail, there is every likelihood to his absconding and even trying to tamper with the prosecution evidence cannot be brushed aside lightly.

Therefore, finding no merits in the petition, the same stands

dismissed.

It is clarified here that nothing discussed above be taken as
any opinion on the merits of the case.

4.10.2018
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No