

109/2.

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-38303-2018

Date of decision:27.09.2019

KAMAL KUMAR

... Petitioner

versus

STATE OF HARYANA

.... Respondent

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr. Gautam Dutt, Advocate,for the petitioner.

Ms. Gaganpreet Kaur, AAG, Haryana.

HARI PAL VERMA, J.(Oral)

Prayer in this petition filed under Section 439 Cr.P.C. is for grant of regular bail to the petitioner in case FIR No.17 dated 04.02.2017 registered under Sections 363/366-A/506/120-B of IPC and Sections 4 & 16 of POCSO Act at Police Station Women, District Ambala.

On 02.11.2018, this Court while awaiting DNA report in the case, had granted interim bail to the petitioner and passed the following order:-

“This is a petition that has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case FIR No.17 dated 04.02.2017 under Sections 363, 366-A, 506 IPC and Sections 4 & 16 of POCSO Act, registered at Police Station Women, Ambala, District Ambala.

Learned counsel appearing on behalf of the petitioner contends that the petitioner herein has been in custody since 04.02.2017. It is contended that the investigation in the case is complete, challan has been presented and charges have been framed. It is further contended that statement of the prosecutrix

has been recorded in which she has been declared hostile but conversely supported the case as set up by the prosecution in her cross-examination. It is also argued that the FSL report has been received in which though the human semen has been detected, on the leggings and underwear, the same cannot be attributed to the petitioner. In this background, he prays for grant of bail to the petitioner.

On the other hand, Ms. Gaganpreet Kaur, learned AAG, Haryana opposes the grant of regular bail while submitting that the DNA profile has been done and the report of the same is awaited.

I have heard learned counsel for the parties.

Since the petitioner has been in custody since 04.02.2017 i.e. for more than 01 year and 09 months, he be enlarged on interim bail, to await the report of the DNA profile, subject to his furnishing bail bonds and surety bonds to the satisfaction of Chief Judicial Magistrate/Duty Magistrate, concerned subject to following terms:-

(i) The petitioner shall comply with the conditions mentioned in Section 437(3) Cr.P.C.

(ii) In the event of his absence on any date of hearing, the benefit of bail allowed to the petitioner shall stand withdrawn. The trial Court shall be competent to cancel his bail bond and surety bond and proceed to procure his presence in accordance with law. In that eventuality the accused shall have to apply for bail afresh before the trial Court.

(iii) He shall not leave the country without the previous permission of the Court.

Adjourned to 25.02.2019.”

In view of communication received from the learned Additional

Sessions Judge, Ambala dated 14.03.2019, as attached with the connected

petition i.e. ***CRM-M-47661-2018*** titled as ***Krishan Versus State of Haryana***, wherein it has been recorded that the DNA report has been received on the court file and as per the said DNA report, DNA profile of the victim is matching with the DNA profile of accused Krishan, but the same is not matching with the DNA profile of accused Kamal (present petitioner) and Pawan.

In view of above, the order dated 02.11.2018 whereby the petitioner was enlarged on interim bail, is made absolute.

However, the petitioner shall continue to face trial in accordance with law.

(HARI PAL VERMA)
JUDGE

27.09.2019
sanjeev

Whether speaking/reasoned?	Yes/No
Whether reportable?	Yes/No