

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

220

CRM-M-31715-2019

Date of Decision:17.09.2019

Mukesh

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR.JUSTICE HARI PAL VERMA.

Present: Mr. S.K. Tripathi, 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 FIR No.605 dated 04.11.2018 under Sections 323, 341, 452, 506 IPC and Sections 8 & 12 of the POCSO Act, registered at Police Station Sector 9-A, Gurugram.

The FIR was registered at the behest of Gulab Devi. As per the complainant, as and when her daughter(aged about 16 years) used to go from home, the petitioner used to chase her and used to obstruct her way. On 31.10.2018, petitioner has given a blow with something on the head of her(complainant) daughter and for this reason, she became unconscious. She was taken to the hospital. Thereafter, on 04.11.2018, the petitioner has come to the house of the complainant and told her that he wanted to talk to her daughter. However, when the complainant has refused to do so, the petitioner started using filthy language and he entered the house of the

complainant while pushing her(complainant). He threatened her daughter also.

Learned counsel for the petitioner states that after registration of FIR, the victim has made a statement under Section 164 Cr.P.C. and the same is at variance. Petitioner is in custody since 05.11.2018. The complainant has made similar allegation against one more person Amit son of Roshan Lal for which FIR No.10 dated 10.01.2018 under Sections 6 & 8 of the POCSO Act and Section 10 of the Children Marriage Prohibition Act, Police Station Sector 9-A, Gurugram, has been registered. Thus, the complainant is in the habit of lodging such FIRs and in the said FIR, the complainant is not coming forward to depose and for this reason, the trial is delayed by her.

Learned State Counsel, on instructions from ASI Anil Kumar, submits that the allegation against the petitioner is that he used to chase the daughter of the complainant and also used to obstruct her way. He has also given injury on the person of the victim. As against total 11 witnesses cited by the prosecution, 03 witnesses have been examined and now the case is fixed for 24.09.2019 before the trial Court.

Heard learned counsel for the parties.

There is no dispute that the petitioner is in custody since 05.11.2018. As regards argument of the learned counsel for the petitioner that the contents of the FIR and statement of the victim under Section 164 Cr.P.C. are at variance, this issue will be considered by the court below during the course of trial. Moreover, trial in the case is not likely to be concluded in the near future. As against total 11 witnesses cited by the prosecution, only 03 witnesses have been examined so far. Therefore, this

Court deems it appropriate to admit the petitioner on bail.

Accordingly, the present petition is allowed and the petitioner is admitted on regular bail, subject to furnishing of his bail bonds/surety bonds to the satisfaction of trial Court.

However, the observations made hereinabove shall not be construed as an expression on the merits of the case and the trial Court shall proceed with the trial independently without being influenced by the order of bail passed by this Court.

It is made clear that the petitioner shall not extend any threat and shall not try to influence any prosecution witnesses directly or indirectly in any manner.

September 17, 2019
seema

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No