

**In The High Court for the States of Punjab and Haryana
At Chandigarh**

CRM-M-51919-2019 (O&M)
Date of Decision:- 12.12.2019

Khuvaib

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Liaqat Ali, Advocate, for the petitioner.

Mr. Ashok Singh Choudhary, Addl. A.G. Haryana,
assisted by ASI Jyoti.

GURVINDER SINGH GILL, J. (Oral)

1. Petitioner-Khuvaib has approached this Court seeking grant of regular bail in a case registered vide FIR No.37, dated 16.7.2018, registered at Police Station Women NIT Faridabad, District Faridabad, under Sections 363, 450 IPC and Section 6 of POCSO Act.
2. The FIR was lodged at the instance of prosecutrix wherein she alleged that her marriage was solemnized with Nasim on 24.6.2018

and after her marriage she came back to her parental home at village Madalpur. On 14.7.2018, when she was sleeping in 'verandah' (courtyard) of her house, then at about 2:30 AM, Jakkar, Rahishu, Khuwaib and Lukman, who are all residents of her village came there and after gagging her mouth, forcibly made her sit in their car and took her to Gurgaon where all four of them committed rape upon her. It is alleged that thereafter they took her to Ganpur and then after leaving her at Sohna, fled away and from where her parents brought her back to her village Madalpur.

3. The matter was investigated by the police and upon conclusion of investigation, it was found that it is only petitioner-Khuwaib who had committed the offences in question and consequently a chargesheet under Section 173 Cr.P.C. was presented against the petitioner and the remaining accused were kept in column No. 2. The Area Magistrate, upon *prima facie*, finding the case to be triable exclusively by the Court of Sessions, committed the case to the said Court.
4. Learned counsel for the petitioner has submitted that he has falsely been implicated in the present case and that in fact it is a case where the prosecutrix had voluntarily left her house so as to join the company of the petitioner and that no offence as alleged had ever been committed by him. Learned counsel has further submitted that in any case the petitioner has been behind bars since the last about 1 year and 5 months and that in these circumstances the petitioner deserves the concession of bail.

5. Opposing the petition, learned State counsel has submitted that since the petitioner is specifically alleged to have committed rape upon the prosecutrix and that when the statement of the prosecutrix was recorded in terms of Section 164 Cr.P.C. she reiterated the allegations against the petitioner, no case for grant of bail is made out. It has further, been informed that although challan was presented on 11.9.2018 but till date not even a single PW out of the cited 20 PWs has been examined.
6. Having considered rival submissions addressed before this Court and while refraining from making any expression as regards merits of the main case and while noticing that despite the fact that petitioner has been behind bars since the last about 1 year and 5 months, not even a single PW out of the cited 20 PWs has been examined, further detention of the petitioner will not serve any useful purpose. The petition, as such, is accepted and petitioner-Khuvaib is ordered to be released on regular bail on his furnishing bail bonds/surety bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate, concerned.

December 12, 2019

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(GURVINDER SINGH GILL)
JUDGE

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No