

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

207

CRM-M No.12759 of 2020
DATE OF DECISION : 3rd JUNE, 2020

Sumit

.... Petitioner

Versus

State of Haryana

.... Respondent

CORAM : HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

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In virtual Court

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Present: Mr. Rakesh Nehra, Advocate for the petitioner.

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RAJBIR SEHRAWAT, J. (Oral)

The present petition has been filed by the petitioner under Section 439 Cr.P.C. for grant of bail pending trial in case FIR No.452 dated 26.07.2018 registered under Sections 452 & 506 IPC and Section 6/17 POCSO Act, at Police Station Shivaji Colony, District Rohtak.

It is contended by the counsel for the petitioner that the case against the petitioner has been totally concocted; for *mala fide* reasons. Even as per the prosecutrix she was having relation with one Arun, who is alleged to have repeated sexual intercourse with the prosecutrix. Even that seems to be with consent only because the prosecutrix has stated that he was doing so on the pretext of marrying her. In the initial stage, there has not been any allegation against the petitioner qua any actual participation in any wrong doing with the prosecutrix. As per the case of the prosecution, the petitioner and one Nidhi used to stand outside to guard the house whenever Arun used to get into the house of the prosecutrix. Subsequently, the prosecutrix had tried to improve the

allegation by submitting that even the present petitioner has done wrong with her. However, no detail, whatsoever, has been given by the prosecutrix. Not only this, the prosecutrix has given birth to a child. The DNA report of the child is also matching with Arun only. It is also pointed out that the co-accused of the petitioner, namely, Nidhi, against whom the allegations are similar to the petitioner, has already been released on bail. The petitioner is in custody for about one year eight months. The petitioner is not required for any investigation purposes.

Notice of motion.

Mr. Anmol Malik, AAG, Haryana, accepts notice on behalf of the State of Punjab.

Learned State counsel, on instructions from ASI Neelam Kumari, submits that name of the petitioner has specifically surfaced during the investigation. Although, initially the prosecutrix had not named the petitioner as the main person, however, she has subsequently given in writing that the petitioner has also done wrong acts with her. However, it is not disputed that the DNA report of the child, to whom the girl has given birth, matches only with Arun. It is also not disputed that the co-accused of the petitioner have already been released on bail and that the petitioner is in custody for about one year and eight months now.

In view the above, but without expressing any further opinion on the merits of the case, the present petition is allowed. The petitioner is ordered to be released on bail pending trial subject to his furnishing bail bonds/surety to the satisfaction of the Trial Court/Duty Magistrate, concerned.

3rd June, 2020
'raj'

(RAJBIR SEHRAWAT)
JUDGE

Whether speaking/reasoned:

Yes

No

Whether Reportable:

Yes

No