

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

209

CRM-M No.13110 of 2020 (O&M)
DATE OF DECISION : 25th AUGUST, 2020

Ajruddin

.... 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. Vaibhav Jain, Advocate for the petitioner.

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RAJBIR SEHRAWAT, J. (Oral)

CRM-11453-2020

The application is allowed as prayed for.

CRM-M No.13110 of 2020

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.152 dated 23.08.2019 registered under Section 506 IPC and Section 6 of POCSO Act, 2012 at Police Station Women NIT Faridabad, District Faridabad.

It is contended by the counsel for the petitioner that the case against the petitioner is totally concocted. Even the age of the prosecutrix is more than 18 years. The opinion of three Doctors was obtained on this aspect, out of which two Doctors opined the girl to be major and only one opined about her being a minor. Still further, it is

submitted that although the prosecutrix levelled allegations against the petitioner qua the rape in her complaint as well as in the statement made before the court, however, the prosecution had resorted to the DNA matching of the petitioner with the DNA of the baby delivered by the prosecutrix. The DNA report categorically says that DNA of the petitioner does not match with the DNA of the baby. Hence, it is submitted that it may be anybody else who had relation with the prosecutrix, however, the petitioner stands altogether excluded by the scientific report of the DNA matching. Still further it is submitted that the petitioner is in custody since 30.08.2019. The evidence of the prosecution is already going on. Therefore, the petitioner is not required for any investigation purposes. Not only this; even the prosecutrix has already been examined before the court. Hence, there is no probability of the petitioner influencing the witnesses; as such. Hence, the petitioner deserves concession of bail.

Notice of motion.

Mr. Arun Beniwal, DAG, Haryana, accepts notice on behalf of the State.

The learned counsel for the State, being instructed by SI Sushila, has submitted that there are specific allegations against the petitioner. The prosecutrix has consistently named the petitioner as the person who raped her and which has resulted in the birth of a child also. Hence, it is submitted that the petitioner does not deserve any concession of bail. However, it is not disputed by the counsel for the State that the prosecution has got the DNA matching report from the Forensic Science Laboratory, which shows that the DNA of the petitioner does not match

with the DNA of the baby, whom the prosecutrix has given birth. It is also not disputed that the petitioner is in custody since 30.08.2019 and that the material witnesses, including the prosecutrix, have already been examined before the court.

In view of 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.

25th AUGUST, 2020
‘raj’

(RAJBIR SEHRAWAT)
JUDGE

<i>Whether speaking/reasoned:</i>	<i>Yes</i>	<i>No</i>
<i>Whether Reportable:</i>	<i>Yes</i>	<i>No</i>