

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

207

**CRM-M-14125-2020
Date of decision : 22.07.2020**

Mohit Gautam

.....Petitioner

Versus

State of Haryana and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. T.P.S. Teji, Advocate
for the petitioner.

Mr. Kuldeep Tiwari, Addl. A.G., Haryana
for the respondent No.1-State.

ARUN KUMAR TYAGI, J (ORAL)

The case has been taken up for hearing through video conferencing.

The petitioner has filed present petition under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to him in case FIR No.146 dated 26.04.2019 registered under Sections 376 and 506 of the Indian Penal Code, 1860 at Police Station Murthal, District Sonipat.

The above-said FIR was registered on statement of the prosecutrix on the allegations that she became friend of the petitioner through facebook. On 15.04.2019 the petitioner invited her to attend marriage function at his residence in Sonipat. The petitioner was waiting for her at Murthal and when the prosecutrix reached Murthal, the petitioner took her in a room at Dhaba situated at Murthal and committed rape on her.

The petitioner, who is in custody since 14.06.2019, has filed the present petition for grant of regular bail.

Mr. Lalit Singla, Advocate has appeared for the complainant and undertakes to file power of attorney within a week in the Registry.

Petition has been opposed by learned State Counsel and learned Counsel for the complainant.

I have heard learned Counsel for the petitioner, learned State Counsel and learned Counsel for the complainant and gone through the record.

Learned Counsel for the petitioner has argued that the petitioner has been falsely implicated in the case. There is undue and unexplained delay of more than 10 days in lodging of the FIR. On completion of investigation the police filed the charge-sheet against the petitioner but during trial the prosecutrix made statement that the petitioner is not the person who had committed rape on her. Even otherwise due to consent of the prosecutrix offence of rape was not made out. The trial is likely to take long time. No useful purpose will be served by detention of the petitioner in custody during trial. Therefore, the petitioner may be granted regular bail.

On the other hand, learned State Counsel has argued that in the case out of 19 prosecution witnesses 16 prosecution witnesses have already been examined and 3 prosecution witnesses could not be examined due to restrictions imposed to prevent the spread of infection of Covid-19. In view of gravity of offences committed, the petitioner does not deserve the concession of regular bail. Therefore, the petition may be dismissed.

Keeping in view the facts and circumstances of the case, nature of accusation against the petitioner, period of his custody, testimony of the prosecutrix during trial and the fact that trial is likely to take long time due to restrictions imposed to prevent spread of infection of Covid-19 but without commenting on the merits of the case, I am of the considered view that the petitioner deserves the concession of regular bail.

Therefore, the petition is allowed and the petitioner is ordered to be released on regular bail on furnishing of requisite bail bonds to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate, concerned.

22.07.2020
Kothiyal

(ARUN KUMAR TYAGI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No