

**(Proceedings conducted through video conferencing on
account of Covid-19 Pandemic)**

CRM-M-14491-2020 (O&M)

Date of Decision: 17.07.2020

NAVEEN

... PETITIONER

VS.

STATE OF HARYANA

.. RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present : Mr. V.P.Sangwan, Advocate, for the petitioner.

Ms. Dimple Jain, AAG, Haryana.

Mr. Arjun Sheoran, Advocate, for the complainant.

VIVEK PURI, J.(ORAL)

Through instant petition, the petitioner is seeking regular bail in case FIR No. 20 dated 04.05.2018 under Sections 342/363/366A/376D/506 read with Section 34 IPC and Sections 6 and 7 of Protection of Children from Sexual Offences Act, registered at Police Station-Women Police Station, Charkhi Dadri, District Charkhi Dadri.

Briefly, the aforesaid FIR has been registered at the instance of complainant on the allegations that during the intervening night of 03/04 May, 2018 between 12:00 afternoon to 02:00 A.M., his daughter had come to his shop to provide tea. While returning back, she was kidnapped by Bir Singh, Naveen (petitioner) and an unknown boy. The complainant ran towards the vehicle but they fled towards village Norangbas. The date of birth of the daughter of the complainant was 03.09.2000. The complainant tried to trace her and she was found in a room, constructed in the field of Joravar Singh and all the boys were present in the room. The daughter of the complainant told that she was subjected to gang rape by Bir Singh, Naveen,

Sonu and another boy and they threatened to kill her, in the event she disclosed about the incident.

It has been contended by the learned counsel for the petitioner that he was found innocent during the course of investigation and has been summoned under Section 319 Cr.P.C. Moreover, co-accused, namely, Sonu, has been granted bail by the Coordinate Bench of this Court. Furthermore, the DNA report does not match with the petitioner.

On the contrary, it has been pointed out by the learned counsel for the complainant and State counsel that the case of the petitioner is not at par with that of Sonu, co-accused and moreover, it is a case of gang rape. Furthermore, the petitioner has been summoned under Section 319 Cr.P.C. as the victim had levelled specific and categoric allegations with regard to commission of gang rape against her. Order dated 07.01.2019, vide which the petitioner has been summoned, has also been upheld by this Court, vide order dated 09.07.2019 passed in CRR-1423-2019.

It is a case of gang rape and merely because the DNA report does not match with the petitioner cannot be termed to be a circumstance to conclude that the petitioner is not involved in the crime. Moreover, the case of the petitioner cannot be termed to be at par with that of Sonu, co-accused. It may be mentioned here that in her statement recorded during the course of trial, the victim has specifically and categorically identified Bir Singh and Naveen, though, she has denied the implication of Sonu, co-accused. Merely because the petitioner was found innocent during the investigation cannot be construed as a mitigating circumstance to extend concession of bail. The petitioner has been summoned by the trial Court under Section 319 of the Code of Criminal Procedure and the said order has a seal of approval of this

Court.

Keeping in view the entire circumstance, no ground is made out to extend the concession of bail to the petitioner. Accordingly, the present petition stands dismissed.

17.07.2020
smriti

(VIVEK PURI)
JUDGE

Whether speaking/reasoned	: Yes/No
Whether Reportable	: Yes/No