

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

202

CRM-M-14761-2020 (O&M)

Date of decision : 04.08.2020.

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... Petitioner

Versus

State of Haryana

.. Respondent

CORAM :HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL

Present:- Mr. Aditya Sanghi, Advocate for the petitioner.

Mr. Gaurav Gurcharan Singh Rai, AAG, Haryana.

Mr. Mohan Singla, Advocate for the complainant.

Anupinder Singh Grewal, J. (Oral)

The petitioner is seeking regular bail in FIR No.200 dated 26.08.2019, under Sections 363, 366-A, 376(2)(N) IPC and Section 6 of the POCSO Act, registered at Police Station Ellenabad, District Sirsa.

Learned counsel for the petitioner contends that the victim in her statement recorded under Section 164 Cr.P.C. before the Judicial Magistrate had stated that she had willingly gone with the petitioner. The victim was 16 years of age while the petitioner was about 21 years of age. He further contends that the petitioner is suffering from congenital hemolytic anemia and has to undergo blood transfusion. He also contends that the petitioner is in custody for about 11 months and is not involved in any other criminal case.

On the last date of hearing, learned State counsel was directed to place on record the opinion of the Doctors of the PGIMS, Rohtak with regard to the medical condition of the petitioner.

Learned State counsel has filed an affidavit of the Deputy

Superintendent of Police, Ellenabad in Court, wherein reference has been made

to the report received from the Senior Professor & Head, Medicine Unit-V & I/c Clinical Hematology, Pt. BDS PGIMS, Rohtak which is reproduced hereunder:-

'In reference to your office letter No.12195 dated 15.07.20(copy enclosed)

This is for your kind information that after the perusal of records brought by police personnel on 18.07.2020 vide above mentioned later, patient Narender, s/o Mahavir 21 yrs./male (Prisoner) R/o Sirsa, presented to casualty, PGIMS, Rohtak, on 01.02.2020 vide UHID No.130022662526 with complaint of jaundice. As per old records available with patient dated 07.09.2015, he is k/c/o congenital hemolytic anemia who was being treated by Hematologist in Jaipur. After symptomatic treatment and blood transfusion patient was referred to Hematology Clinic, PGIMS, Rohtak. Patient presented in Hematology Clinic on 26.02.2020 and was advised work up for chronic hemolytic anemia. Patient again reviewed with reports on 04.03.2020 and was advised follow up after three weeks but meanwhile patient developed fever and swelling in left ankle for which he was admitted on 13.03.2020 in 3/V vide CR No.23944 and was then transferred to Medicine Unit-II(on Prisoner duty) and was discharged on 16.03.2020 in hemodynamically stable condition. Patient again came for follow up in Hematology clinic on 18.05.2020 & 27.05.2020 and was advised for specific treatment. Patient was reviewed in medicine OPD 9/III on 01.07.2020. Latest record available showed Hb-5.8 gm, Serum Bilirubin- 7.7 (on 08.06.2020).

In view of chronic nature of disease (congenital hemolytic anemia) with intermittent episodes of acute crisis, his health is at risk because of COVID-19 pandemic.'

Learned State counsel, upon instructions from ASI Sunita Devi, contends that 03 out of 14 prosecution witnesses have been examined.

Learned counsel for the complainant states that in the event of this Court inclined to grant bail to the petitioner, the Court should direct that the petitioner should remain in hospital and not go to his residence as is likely to influence the witnesses.

Heard through video conferencing.

It is, thus, apparent that the petitioner is suffering from congenital hemolytic anemia; he also requires blood transfusion; his Hb is 5.8 gm and as per the aforesaid report of the petitioner, he is at risk because of COVID-19 pandemic. It would not be appropriate for this Court to direct that the petitioner should either be treated in hospital or remain in jail.

In view of the submissions of the learned counsel for the petitioner, especially the medical condition of the petitioner; he is in custody for about 11 months; he is not involved in any other criminal case; the COVID-19 pandemic and the conclusion of the trial is likely to take some time, I deem it a fit case to grant the concession of regular bail to the petitioner.

Therefore, without expressing any opinion on the merits of the case, the instant petition is allowed. The petitioner is ordered to be released on regular bail on his furnishing requisite bonds to the satisfaction of the trial Court/Duty Magistrate concerned.

However, it is clarified that the petitioner shall not try to contact the victim or any of the witnesses in any manner either through mobile phone, in person etc.

(ANUPINDER SINGH GREWAL)
JUDGE

August 04, 2020
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Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No