

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

204**CRM-M-14968-2020 (O&M)****Date of decision: 17.08.2020****Neeraj****.....Petitioner****versus****State of Haryana****....Respondent****CORAM: Hon'ble Mr. Justice Girish Agnihotri**

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

Mr. Rajiv Goyal, DAG, Haryana.

*(the aforesaid presence is being recorded through video
conferencing since the proceedings are being conducted in Virtual Court).*

GIRISH AGNIHOTRI, J. (Oral)

Petitioner-Neeraj, stated to be aged 20 years, has filed the present petition under Section 439 Cr. P.C. *inter alia* praying for grant of regular bail in case FIR No.758 dated 27.11.2018, under Sections 376, 366-A of IPC, Section 6 of POCSO Act, 2012 and Section 3 SC/ST Act, 1989, registered at Police Station City Bahadurgarh, District Jhajjar.

Learned counsel for the petitioner, by making reference to FIR, firstly submits that as per the allegations, it is alleged that on 02.11.2018, the petitioner and the complainant unwantedly established physical relations. Second incident again is mentioned of 06.11.2018 (they allegedly to celebrate the birthday of the complainant). When again, it is alleged that the petitioner, against the wishes of the complainant, established physical relations with her. Secondly, learned counsel makes reference to reply filed by way of affidavit of Sh. Rahul Dev, HPS, Deputy Superintendent of

Police, Jhajjar, District Jhajjar, wherein, in para 2, it has been *inter alia* submitted that during the course of investigation, it transpired that no offence punishable under Section 376-D IPC stood committed and accordingly the same were dropped and offence punishable under Sections 376, 328 of IPC were added. Learned counsel then thirdly makes submissions that reference to para 4 of the affidavit, would shows that as per MLR, no injury was found on body of the accused. It is further submitted that during the course of investigation and as per the facts and circumstances, it transpired that no offence punishable under Section 328, 120-B IPC stood committed and accordingly the same were dropped. It is submitted that offence punishable under Section 366-A IPC was added. Learned counsel forthly submits that in para 5 of the reply, it has been submitted that as per FSL report, no semen was detected on the clothes of the prosecutrix. Learned counsel then lastly submits that there are total of 19 witnesses. However, as mentioned in para 6 of the affidavit, the case was fixed for 24.07.2020 for notice to additional accused namely, Indu (summoned by the trial Court under Section 319 Cr. P.C.). Learned counsel submits that in view of this, the trial is likely to take some time.

Learned State counsel, on instructions from SI Jora Singh, submits that the charges were framed on 01.03.2019. There are total of 19 witnesses, but, none has been examined till date.

Faced with the situation, learned counsel for the petitioner submits that the petitioner is a student, studying in ITI and he is in custody since 01 year and 08 months. He then submits that due to the present COVID-19 situation, detention of the petitioner in jail is dangerous to his

life, therefore, petitioner may be granted concession of regular bail.

In view of the peculiar facts as noticed above, considering the existing situation due to COVID-19 and the fact that trial is likely to take some time, this Court deems it appropriate to direct the release of the petitioner on regular bail to the satisfaction of Chief Judicial Magistrate/Duty Magistrate concerned, subject to his furnishing bail bonds/surety bonds. However, it is made clear that anything observed herein shall not be construed as an expression on merits of the case.

The petition stands disposed of accordingly.

(GIRISH AGNIHOTRI)
JUDGE

17.08.2020

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