

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

CRM-M-16031 of 2020 (O&M)

Date of Decision: 03.09.2020

Abhishek Kumar @ Abhi

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present : Mr. Pankaj Bali, Advocate,
for the petitioner.

Mr. Luvinder Sofat, AAG, Punjab.

Mr. Narinder Singh Dadwal, Advocate,
for the complainant.

(Presence marked through video conference).

ARUN MONGA, J. (ORAL)

Petitioner seeks regular bail in FIR No.113 dated 13.06.2019, under Sections 376, 354 of IPC and Sections 4, 8 of The Protection of Children from Sexual Offences Act, registered at Police Station City-2 Khanna, Ludhiana.

2. Learned counsel for the petitioner submits that on the last date of hearing before this court, matter was adjourned and trial Court was directed to record the statement of the prosecutrix. Since, learned counsel for the complainant/prosecutrix had submitted that the accused-petitioner is pressurizing her to resile from her earlier statement. He submits that the case has been adjourned by the trial Court number of times and till date there is no progress in the trial due to pendency of application u/s 319 of Cr.P.C. and owing to pandemic scenario as well . He refers to zimini orders passed by trial Court from time to time (Annexure P-13 colly.). Learned counsel for the petitioner submits that petitioner is in custody since 02.04.2019.

3. Learned counsel for the petitioner further submits that as per his instructions, in the meanwhile prosecutrix has got married and is settled at Delhi and it is highly probable that she would even turn out for recording her statement since, as per his instructions, the entire allegation of rape arose out of certain other collateral disputes between two families, who at the relevant time were residing as immediate neighbours.

4. The record of the case reflects that prior to registration of an FIR, a complaint dated 08.04.2019 (Annexure P-10) was indeed given by the father of the petitioner, apprehending that a false case against him/his family and or his son (petitioner herein) may be instituted to victimise them.

5. While on one hand, no action on the said complaint has been taken but on the other hand, on a complaint of mother of the prosecutrix, FIR in question was registered, alleging that her minor daughter, who at the relevant time was 17 years old, was subjected to rape, that too, one year prior to the filing of the complaint. It was alleged that the petitioner, who at the relevant time was 22 years old young man, forcibly pushed the door of the home and after entering, forcibly took the daughter of the complainant to one room and committed rape. He thereafter threatened if she will disclose about this incident to anybody, he (petitioner herein) would kill her and her family.

6. It is rather intriguing, as to what transpired after a lapse of one year to bring out a complaint, that too when a prior complaint by father of the petitioner was filed expressing his fears. In any case, these are the questions to be adjudicated by the trial Court at the appropriate stage, and therefore, this Court refrains to comment anything on the merits of the case.

7. This case was earlier too heard at some length on the last date of hearing and it was adjourned for today to ascertain if, in the interregnum,

statement of the prosecutrix could be recorded, supporting her version that led to registration of FIR.

8. Learned State counsel submits that due to the pandemic scenario, the trial Courts are not conducting any evidence and only matters of extreme urgency are being taken.

9. In the premise, it seems highly improbable that trial can resume any time soon or conclude in near future.

10. From the material on record, it is apparent that the petitioner is in custody for almost one year and six months and presently trial against him is held up on account of Covid-19 pandemic. The Courts currently are working with restrictions and taking up only urgent matters. Considering the overall scenario, without commenting on the merits of the case, the petition is allowed. Petitioner shall be released on bail on his furnishing bail bonds and surety bonds to the satisfaction of concerned Chief Judicial Magistrate/ Duty Magistrate, as the case may be.

SEPTEMBER 03, 2020

vandana

**(ARUN MONGA)
JUDGE**

Whether speaking/reasoned :

Yes/No

Whether reportable :

Yes/No