

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-17052-2020 (O&M).

Date of Decision: August 17, 2020

SOHAN LAL@ SONU

..... Petitioner(s)

Versus

STATE OF HARYANA

..... Respondent(s)

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Pradeep Panwar, Advocate
for the petitioner.

Mr. Anmol Malik, DAG, Haryana.

LISA GILL, J.

This matter is being taken up for hearing through video conferencing due to outbreak of the pandemic, COVID-19.

The petitioner prays for grant of bail pending trial in FIR No.673, dated 08.11.2018 under Sections 342, 452, 506 IPC and Section 8 of the POCSO Act, registered at Police Station Safidon, District Jind.

Brief averments as stated in the abovesaid FIR are, that when the complainant/victim on 03.11.2018, at about 1:30 PM, was preparing meals in her house, the present petitioner entered her house and took her in the washroom. He outraged her modesty and threatened her not to disclose the incident to her father. Strict action was prayed for. FIR was registered on the statement of the victim, recorded on 08.11.2018, under Sections 506, 342, 452 IPC and Section 8 of the POCSO Act. Her statement under Section

164 Cr.P.C. was recorded on 09.11.2018. The victim's father submitted a complaint/representation on 09.11.2018 alleging the commission of offence punishable under Section 6 of the POCSO Act against the present petitioner as well as co-accused Thathu @ Prince. Supplementary statement of the victim was also recorded on 09.11.2018 in this respect.

Learned counsel for the petitioner vehemently argues that there is an unexplained delay in lodging of the FIR in this case. The incident is alleged to have taken place on 03.11.2018, whereas the FIR was registered on 08.11.2018. Furthermore, the victim in her initial statement as well as in her statement, recorded under Section 164 Cr.P.C. raised allegations of outraging of her modesty and no allegation of commission of rape was raised by her, though in her supplementary statement recorded on the same day, she has raised allegation of rape qua the present petitioner as well as another person, namely Thathu@Prince. Thus the victim, it is argued has changed her version for reasons best known to her. Learned counsel urges that version of the victim qua the petitioner, is not supported by any evidence and is absolutely incorrect. As per the FSL report (Annexure P-2), semen was detected on the undergarment of co-accused Thathu @ Prince and not on any other exhibits. It is submitted that the co-accused Thathu @ Prince has been afforded the concession of bail pending trial on 21.01.2020 in CRM-M-6083-2019 (Annexure P-4). It is further submitted that the petitioner was earlier afforded the concession of interim anticipatory bail in CRM-M-75501-2018, though the same was ultimately dismissed on 21.01.2020. He did not misuse the concession of anticipatory bail in any manner. Challan stands presented. It is, thus, prayed that this petition be allowed.

Learned counsel for the State is unable to deny that the victim has recorded a different version in the initial FIR registered on 08.11.2018 in respect to the incident which allegedly took place on 03.11.2018. In the supplementary statement, the present petitioner along with co-accused are alleged to have committed the offence punishable under Section 6 of the POCSO Act, which was added on 09.11.2018. FSL report (Annexure P-2) as well as order dated 21.01.2020 (Annexure P-4) are a matter of record. Learned counsel for the State, on instructions from ASI Rajesh Devi has verified that the petitioner is not involved in any other criminal case and the final report under Section 173 Cr.P.C. stands presented.

There is no allegation that the petitioner is likely to abscond or influence witnesses. Due to outbreak of the pandemic COVID-19 there is not much progress towards conclusion of the trial. No useful purpose would be served by keeping the petitioner incarcerated any longer.

Keeping in view the facts and circumstances of the case but without commenting upon or expressing any opinion on the merits thereof, this petition is allowed. The petitioner be released on bail pending trial subject to his furnishing requisite bail bonds and surety to the satisfaction of the learned Trial Court/Duty Magistrate.

It is made clear that the petitioner shall not directly or indirectly try to contact the complainant/prosecutrix, any of her family members or witnesses in this case. Any such infraction on the part of the petitioner may entail cancellation of bail.

It is clarified that none of the observations made hereinabove shall be construed to be a reflection on the merits of the case. The same are solely confined for the purpose of decision of the present petition.

17.08.2020
Sunil

(LISA GILL)
JUDGE

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