

Sr. No.216

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

**CRM-M-17084 of 2020 (O&M)
DATE OF DECISION : 02.09.2020**

Sumit @ Padha

...Petitioner

Versus

State of Haryana

...Respondent

CORAM : HON'BLE MR. JUSTICE ARUN MONGA

Present : Mr. Anshuman Dalal, Advocate,
for the petitioner.

Mr. Bhupender Singh, DAG Haryana.
(Presence marked through video conference)

ARUN MONGA, J. (ORAL)

1. Petitioner seeks regular bail in FIR No. 22 dated 21.01.2020, registered under Sections 376, 341, 354C, 506, 120-B read with Section 34 IPC, under Sections 4 and 17 of the Protection of Children from Sexual Offences Act, 2012 and Section 67-B of the Information Technology Act, 2000, Police Station IMT Rohtak.

2. Learned counsel for the petitioner submits that petitioner has not even been named in the FIR. According to him, per FIR, allegations of rape are against one Aashish. He submits that petitioner has been implicated in the FIR on the basis of disclosure statement of Aashish to the effect that petitioner along with one Deepak had made a video of the prosecutrix. According to him, the prosecutrix had nowhere named the petitioner in the whole incident. He further submits that petitioner is in custody since

25.01.2020 and investigation is over. He further submits that though a mobile phone was stated to be recovered from the petitioner, but as per FSL report no obscene material/ video of prosecutrix has been found from it. He further submits that Deepak has been enlarged on bail by virtue of order dated 19.06.2020 passed by this Court in CRM-M-14114 of 2020.

3. On the other hand, learned State counsel opposes the bail plea. He, however, admits that petitioner was found involved in the case on the basis of disclosure statement made by prime accused Aashish and there are no allegations of rape against the present petitioner. On a query of Court, he submits that investigation is over and challan has been filed. He does not controvert that from the mobile phone recovered from the petitioner, no incriminating material, as alleged in the disclosure statement, has been recovered and that co-accused Deepak has already been granted the benefit of regular bail by this Court.

4. The petitioner is in custody since 25.01.2020. The allegations of rape and criminal intimidation are against co-accused Aashish. In the FIR, no overt act has been attributed to the petitioner and his involvement in the offence has surfaced on the basis of disclosure statement of prime accused. As admitted by learned State counsel, no obscene material has been found in the mobile recovered from the petitioner. His co-accused Deepak has already been granted bail and on the ground of parity alone, the petitioner is entitled to be released on bail. That apart, investigation is over and commencement of trial is still awaited. In the current pandemic scenario, the trial of the case is not likely either to start or get over soon.

5. Taking wholesome view of the matter, but without expressing any opinion on the merits of the case, the petitioner is admitted to bail on his

furnishing bail bonds and surety bonds to the satisfaction of Chief Judicial Magistrate/ Duty Magistrate, Rohtak, as the case may be.

6. Petition stands allowed accordingly.

September 02, 2020
Jiten

(ARUN MONGA)
JUDGE

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