

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

203

CRM-M-17574-2020(O & M)

Date of Decision: 05.10.2020

Nafeesh

....Petitioner.

Versus

State of Haryana

....Respondent.

CORAM: HON'BLE MR. JUSTICE LALIT BATRA

Present: Ms.Rosi, Advocate
for the petitioner.

Mr.Vivek Saini, Additional Advocate General Haryana.

Mr.Jamshed Ahmed, Advocate
for the complainant

Lalit Batra , J . (Oral)

Case has been taken up for hearing through Video Conferencing.

Present petition under Section 439 Cr.P.C is for grant of regular bail to petitioner-**Nafeesh** in case F.I.R. No.67 dated 27.08.2018 under Sections 376-D, 452 and 506 IPC and Section 6 of POCSO Act, 2012 (Section 376-D IPC and Section 6 of POCSO Act, 2012 deleted later on and Sections 174-A and 376 IPC and Section 4 of POCSO Act, added later on) registered at Police Station Women Police Station Palwal, District Palwal.

Learned counsel for the petitioner *inter alia* contends that the allegations levelled in the FIR are totally concocted, false and frivolous and there is no iota of truth therein. She further urges that there is delay of 02 days in registration of FIR. She further urges that co-accused namely Arbaaz has been declared innocent by the Investigating Agency. She further urges that even otherwise FSL report does not find favour in the cause of

prosecution. She further urges that the petitioner is in custody since 27.01.2020 and he is no more required for any investigation by the Investigating Agency. She further submits that challan has already been presented in the Court and trial has commenced. She further urges that since trial of the case would take sufficient time to conclude, no useful purpose would be served by keeping the petitioner in custody further and he may be released on bail.

On the other hand, learned State counsel having assistance of learned counsel for the complainant while opposing instant petition has vehemently argued that petitioner committed rape on the person of prosecutrix, minor girl aged about 13½ years. He further urges that petitioner evaded his arrest and despite issuance of warrants of arrest and proclamation, his appearance could not be secured and as such he was declared proclaimed offender. He further urges that petitioner was arrested in case FIR No.34 dated 24.01.2020 under Sections 379 and 411 IPC, Police Station Sadar Nuh and thereafter he was joined in the investigation of instant case FIR on 29.01.2020. He further urges that after completion of investigation, challan was presented against the petitioner in the Court and trial has commenced. He further urges that prosecutrix while appearing in the witness box as PW-1, has reiterated the prosecution version. He further urges that statements of material witnesses especially of Nisar (PW) are yet to be recorded. He further urges that keeping in view nature of offence and especially the fact that petitioner was declared proclaimed offender, thus, he does not deserve the concession of bail.

I have heard learned counsel for the parties and have carefully gone through the contents of petition, reply furnished at the instance of

respondent-State as well as status report of instant case as received from the quarter concerned.

At this stage, without commenting anything on the merits of the case lest it may prejudice the outcome of the trial but taking into consideration the fact that allegedly petitioner committed rape on the person of prosecutrix, minor girl aged about 13½ years; the fact that petitioner had evaded his arrest for sufficient period and resultantly he was declared proclaimed offender; the fact that statements of material witnesses are yet to be recorded and the fact that allegations against the petitioner are serious in nature, thus, he does not deserve the concession of bail.

As a sequel to above, instant petition for grant of regular bail moved by the petitioner is dismissed.

October 05, 2020
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(LALIT BATRA)
JUDGE

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