

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

212

CRM-M-20355-2020

Date of decision: 10.08.2020

Anand

....Petitioner

versus

State of Haryana

....Respondent

CORAM: Hon'ble Mr. Justice Girish Agnihotri

Present: Mr. Sanjay Vashisth, Advocate
for the petitioner.

Mr. Rajeev Goyal, DAG, Haryana.

GIRISH AGNIHOTRI, J. (Oral)

The matter has been taken up through video-conferencing on account of lockdown due to outbreak of pandemic COVID-19.

Petitioner-Anand, stated to be aged 20 years, has filed the present petition under Section 439 Cr.P.C., *inter alia* with a prayer for grant of regular bail in case FIR No.42 dated 26.03.2019, registered under Section 376(3) of Indian Penal Code and Section 6 of Prevention of Children against Sexual Offence Act 2012 (subsequently added Section 506 IPC), at Women Police Station, Bhiwani, District Bhiwani.

Learned counsel for the petitioner, based on the pleadings, submits that the prosecutrix /victim-S (name withheld), is a girl who is deaf and dumb. Learned counsel then submits that the petitioner and his counsel had cooperated with the Court proceedings and three times the

examination/cross-examination of the prosecutrix-S, was deferred. In this regard, by making reference to Para 3 of the petition, he submits that on 26.03.2019, the prosecutrix appeared before the Child Welfare Committee, Bhiwani for the purpose of counseling. As per the counseling, a report was submitted and according the report, she was stated to be capable of writing, but, on 23.10.2019, when the prosecutrix-S appeared, it has been recorded by the Additional Sessions Judge that the interpreter is not in a position to interpret correctly the sign language of the child victim. Therefore the Court deferred the examination-in-Chief. Thereafter, once again, on 02.12.2019, it was recorded that the interpreter is not in a position to effectively communicate with the victim. Thereafter, on 04.12.2019, it was recorded that witness is unable to understand the sign language, even of her mother. Accordingly, on 04.12.2019, learned Additional Sessions Judge, Special Court, Bhiwani, has recorded that further cross-examination of the victim is dropped.

Learned counsel then submits that there are umpteen discrepancies in the correction of sample, DNA test and blood test etc. Various submissions have been made as also submitted in Para 4 of the petition onwards.

Learned State counsel however opposes the bail on merits by submitting that facts of the case are very unfortunate. On instructions from SI Dharmi Devi, learned State counsel further submits that there are total of 18 witnesses and only 13 have been examined till date.

Faced with the situation, learned counsel for the petitioner

submits that petitioner is a young boy, who is just 20 years of age and in custody since 26.03.2019 and is going to complete more than 1 ½ years of custody. He further submits that due to the present COVID-19 situation, detention of the petitioner in jail would be dangerous to his life and also the fact that trial is likely to take some time, the petitioner may be granted concession of regular bail.

In view of the peculiar facts noticed above and the present situation due to COVID-19, this Court deems it appropriate to direct 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

10.08.2020

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Whether speaking/ reasoned:

Yes/No

Whether Reportable:

Yes/No