IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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CRM-M-20035-2020 (O&M)
Date of decision: 21.08.2020

Prem Tiwari .....Petitioner

Versus

State of Punjab .....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Ms. Amarinder Kaur, Advocate
for the petitioner.

Mr. Sidakmeet Sandhu, Asstt. A.G., Punjab
for the respondent-State.

Mr. Hitesh Verma, Advocate
for the prosecutrix.

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ARUN KUMAR TYAGI, J (ORAL)

(The case has been taken up for hearing through video conferencing.)

CRM-17356-2020

Prayer in this application is for exemption from filing of certified/original/legible copies of Annexures.

For the reasons mentioned in the application, the same is allowed and the petitioner is exempted from filing of certified/original/legible copies of Annexures.

CRM-M-20035-2020

The petitioner has filed the present (first) petition under Section 439 of the Code of Criminal Procedure, 1973 (for short, "the Cr.P.C.") for grant of regular bail in case FIR No.218 dated 17.09.2019 registered under Sections 376 and 506 of the Indian Penal Code, 1860

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(for short, "IPC") and Section 4 of the Protection of Children from Sexual Offences, 2012 at Police Station Sahnewal, District Ludhiana.

The above said FIR was registered on statement of prosecutrix that the petitioner allured her on the pretext of marriage and committed rape on 20.08.2019 by threatening to kill her brother. The police investigated the case and on completion of investigation filed challan against the petitioner.

The petitioner, who is in custody since the date of his arrest, has filed the present petition for grant of regular bail.

Learned State counsel has appeared and opposed the petition. However, no reply has been filed by the respondent-State.

Learned counsel for the prosecutrix has filed affidavit of father of the prosecutrix through e-mail, print out of which is taken on record.

I have heard learned counsel for the petitioner, learned State counsel and learned counsel for the prosecutrix and gone through the relevant record.

Learned counsel for the petitioner has submitted that the petitioner and the prosecutrix were having love affair which was objected to by parents of the prosecutrix. The petitioner has been falsely implicated in the case on allegations of rape at their instance. Subsequently, the matter has been compromised and the prosecutrix and their parents have agreed to marriage of the prosecutrix with the petitioner. The trial is likely to take long time due to restrictions imposed to prevent spread of infection of Covid-19. No useful purpose will be served by further detention of the petitioner in custody.

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Therefore, the petitioner may be granted regular bail.

In support of her submissions, learned counsel for the petitioner has relied upon orders granting bail passed by this Court in ***CRM-M-41551-2019 titled as 'Lovepreet Singh Vs. State of Punjab, CRM-M-44119-2019 titled as 'Jaskaran Singh @ Nonni Vs. State of Punjab', CRM-M-16393-2020 titled as 'Gaurav Sharma @ Ricky Lahoria Vs. State of Punjab', CRM-M-15486-2019 titled as 'Santosh Kumar @ Sunny Kumar Vs. State of Punjab' and CRM-M-4131-2020 titled as 'Jugraj Singh @ Joga Vs. State of Punjab and others'***.

On the other hand, learned State counsel has submitted that the prosecutrix has supported the case of the prosecution during trial. Since the offence is non-compoundable subsequent compromise is of no legal consequence. In view of the gravity of accusation, the petitioner does not deserve grant of regular bail. Therefore, the petition may be dismissed.

Learned counsel for the prosecutrix has admitted the factum of compromise and submitted that the prosecutrix has no objection to grant of bail to the petitioner.

In view of the facts and circumstances of the case, the fact that adjudication of question of guilt or innocence of the petitioner on the basis of evidence to be produced during trial is likely to take long time due to restrictions imposed to prevent spread of infection of Covid-19 and that further detention of the petitioner in custody will not serve any useful purpose but without commenting on the merits of the case, I am inclined to extend the concession of regular bail to the petitioner.

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Therefore, the petition is allowed and the petitioner is ordered to be released on regular bail on furnishing of personal and surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

21.08.2020 (**ARUN KUMAR TYAGI**)
Vinay **JUDGE**

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

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