

In virtual Court

CRM-M-22664-2020

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-22664-2020 (O&M)
Date of decision: 19.08.2020

Mohit @ Kala

... Petitioner

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. K.S. Virk, Advocate
for the petitioner.

Mr. Deepak Grewal, DAG, Haryana.

ARVIND SINGH SANGWAN, J. (ORAL)

Prayer in this petition is for grant of regular bail in FIR No.49 dated 02.02.2019 under Section 346 IPC (charge sheet presented and charges were framed under Sections 328, 366, 376(2) IPC), registered at Police Station Safidon, District Jind.

Learned counsel for the petitioner submits that initially, the FIR was registered by complainant Surender Singh regarding missing of his wife 'M'. It is further submitted that the incident pertains to 26.01.2019 and the FIR was registered on 02.02.2019 i.e. after a delay of more than 06 days. It is also submitted that the prosecutrix, in her statements recorded under Section 161 Cr.P.C. as well as under Section 164 Cr.P.C. before the Magistrate, had stated that the petitioner is her brother-in-law and he had taken her to Safidon and

thereafter, he took her to Assandh and then to Karnal. Both stayed at a Dharamsala at Karnal and then went to Chandigarh. In the meantime, Mohit got a phone call from his home and he brought her back to Karnal and Safidon and then dropped her at bus stand.

Learned counsel for the petitioner has further submitted that in the statement recorded under Section 164 Cr.P.C., she stated that she has suspected that some wrong act has been committed by the petitioner. It is further submitted that during the trial also, the prosecutrix appeared as PW6 and made improvements by alleging that the petitioner has committed rape on her without her consent, though she further stated that her statement was recorded under Section 161 Cr.P.C. In the cross-examination, the prosecutrix has admitted about staying with the petitioner from 27.01.2019 to 02.02.2019 at different places.

It is next submitted that even the FSL report in this regard is inconclusive and statement of the complainant/husband of the victim is recorded as PW5 and nothing has come against the petitioner. It is also submitted that the petitioner is in custody since 03.02.2019; the complainant as well as the victim have already been examined and there is no possibility of tempering with the prosecution evidence.

Learned State counsel has submitted that there are allegations of rape against the petitioner, who had enticed away wife of the complainant, however, it is disputed that out of total 15 prosecution witnesses, only 06 PWs have been examined so far and complainant and the victim have already been examined.

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After hearing learned counsel for the parties, without commenting anything on merits of the case and considering the aforesaid submissions made by learned counsel for the parties, this petition is allowed and the petitioner is directed to be released on regular bail subject to furnishing his bail/surety bonds to the satisfaction of the trial Court/Illaq Magistrate/Duty Magistrate, concerned.

Petition is disposed of.

[ARVIND SINGH SANGWAN]
JUDGE

19.08.2020

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Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No