

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

**CRM-M-22317-2020
Date of decision: 24.08.2020**

DeepakPetitioner

Versus

State of HaryanaRespondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Ms. Suman Sagar, Advocate
for the petitioner.

Mr. Naveen Kumar Panwar, DAG, Haryana
for the respondent-State.

ARUN KUMAR TYAGI, J. (ORAL)

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

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 to the petitioner in case FIR No.376 dated 16.08.2019 registered under Sections 323, 376(2)(n), 506, 509 of the Indian Penal Code, 1860 (for short 'the IPC') and Section 6 of the POCSO Act at Police Station Safidon, District Jind, Haryana

The above said FIR was registered on written complaint of the prosecutrix who alleged that the petitioner had been continuously raping her in the past 2 years when she was minor. On 15.08.2019 when she was returning from her parental home after celebrating Rakhi to her matrimonial home on motorcycle driven by her husband the petitioner stopped their motorcycle in the lane and commented how she could return without meeting her paramour and gave beating to her husband with kicks and fist blows. His brother Dinesh came out of the house

with *kassi* with the intention to kill her husband. When she raised alarm, her parents reached the spot on which the petitioner and Dinesh fled from the spot. During investigation the police found Dinesh to be innocent. On completion of investigation the police filed challan against the petitioner.

The petitioner, who is in custody since 20.08.2019, has filed the present (first) petition for grant of regular bail.

The petition has been opposed by learned State Counsel in terms of reply filed by way of affidavit of Ajit Singh Shekhawat, IPS, Assistant Superintendent of Police, Safidon.

I have heard learned Counsel for the petitioner and learned State Counsel and gone through the record.

Learned Counsel for the petitioner has submitted that the petitioner has been falsely implicated in the case. No offence has been committed by the petitioner. There was undue and unreasonable delay in lodging of the FIR. No date, month or place of alleged rape had been mentioned in the complaint. There is no medical evidence in support of the allegations. The trial is likely to take long time and no useful purpose will be served by further detention of the petitioner in custody during trial. Therefore, the petition may be allowed and the petitioner may be enlarged on regular bail.

On the other hand, learned State Counsel has argued that the petitioner is alleged to have committed rape on the prosecutrix when she was minor and to have given beating to her husband and to have criminally intimidated the prosecutrix and her husband. In view of the gravity of accusation the petitioner does not deserve the concession

of regular bail. Therefore, the petition may be dismissed.

Keeping in view the facts and circumstances of the case, nature of accusation and evidence against the petitioner and the fact that the trial is likely to take long time due to restrictions imposed to prevent spread of infection of Covid-19 but without commenting on the merits of the case, I consider it to be a fit case for extending the concession of regular bail to the petitioner.

In view of the above, the petition is allowed and the petitioner is ordered to be released on regular bail on furnishing of requisite bail bonds to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate, concerned.

24.08.2020

kavneet singh

(ARUN KUMAR TYAGI)
JUDGE

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