

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-24260-2020 (O&M)
Date of Decision:-24.09.2020.

Rahul

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE SANJAY KUMAR

Present: Ms. Monika Jangra, Advocate for the petitioner.

Ms. Mahima Yashpal, DAG, Haryana.

SANJAY KUMAR, J. (Oral)

CRM-23830-2020

This application is ordered and the statement of the victim, recorded under Section 164 Cr.P.C., is taken on record as Annexure P-1.

CRM-M-24260-2020

The petitioner is one of the accused in FIR No.0213 dated 22.05.2019 on the file of Police Station Kurukshetra University, District Kurukshetra, registered under Sections 342, 366 and 376-D IPC. By way of this petition filed under Section 439 Cr.P.C., he seeks grant of regular bail.

Ms. Monika Jangra, learned counsel for the petitioner, would contend that the victim had initially alleged the offence of gang-rape against

3 accused but thereafter, she changed her stand and restricted it to the petitioner alone. Learned counsel would therefore contend that this ambiguity on the part of the victim dilutes the prosecution's case and the benefit thereof should be given to the petitioner at this stage by granting him regular bail. She would point out that the co-accused have already been granted such relief and that no case is made out for the continued incarceration of the petitioner as the *challan* has already been filed.

Ms. Mahima Yashpal, learned Deputy Advocate General, Haryana, would however oppose this plea. She would point out that in the statement of the victim, recorded under Section 164 Cr.P.C. (Annexure P-1), the petitioner has been specifically named. She would also rely upon medical evidence which supports the commission of the offence.

It is no doubt true that the initial complaint made by the victim was to the effect that all the named accused had raped her. However, in her statement recorded under Section 164 Cr.P.C., she named only the petitioner and categorically stated that he had raped her. When she was medically examined, she seems to have specifically named the petitioner alone as the same was recorded by the medical authorities. Further, the medical examination showed that there was a reddish coloured fresh tear in the private parts of the victim and bleeding was also detected in the said region.

Notwithstanding the varying stand of the victim, the aforesaid medical evidence *prima facie* indicates commission of the offence of rape upon her. The co-accused seem to have been granted the benefit of doubt owing to the changed stance of the victim but the petitioner does not stand

on par with them, as is evident from the aforestated facts. The case is already under trial. The mere fact that the same would be delayed owing to the prevailing Covid-19 pandemic is not reason enough to extend any indulgence to the petitioner. He is accused of a serious and heinous offence and sufficient incriminating material is available against him. No grounds are made out to grant him bail pending judicial determination of his guilt.

The bail petition is accordingly dismissed.

Needless to state, the observations made hereinabove are only for the purposes of this order. They shall neither be binding nor have any influence over the future progression of the case.

(SANJAY KUMAR)
JUDGE

September 24, 2020.
sandeep

Whether speaking/reasoned:-

Yes / No

Whether Reportable:-

Yes / No.