

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

CRM-M-23551-2020 (O&M)

Date of Decision:14.09.2020

Ajay Kumar

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA

Present:- Mr. Keshav Pratap Singh, Advocate for the petitioner.

Mr. Saurabh Mohunta, DAG, Haryana.

TEJINDER SINGH DHINDSA J.(Oral)

This case has been taken up through Video Conferencing via Webex facility in the light of Pandemic Covid-19 situation and as per instructions.

Petitioner seeks benefit of regular bail pending trial in FIR No.54 dated 09.04.2020 under Sections 354-A/354-D/363/376/366/506 IPC and Section 3(2)V of the Schedule Castes and Schedule Tribes (Prevention of Atrocities) Act, 1989 registered at Police Station Women Bhiwani, District Bhiwani.

Counsel for the parties have been heard.

FIR came to be registered on the statement of Anju who claimed her date of birth to be 20.06.2002.

Petitioner was stated to be residing in the neighbourhood and was alleged to be keeping an evil eye on the complainant since last 8-9 months. Complainant asserted that the accused/petitioner used to tease her and was repeatedly seeking her mobile number. Thereafter, upon a threat having been issued to kill brother of the complainant, the mobile number had been

extracted and even calls were placed. Incident is stated to be of 24.03.2020 when accused is stated to have made a phone call and called upon the complainant to come near the Government Girls Middle School, failing which her brother would be kidnapped. Under such threat the complainant is stated to have proceeded to the venue whereupon the accused forcibly made her sit in a car and having driven away on a road leading to a particular village, he then parked the car and raped the complainant on the rear seat.

Counsel for the petitioner has argued that a supplementary statement of the victim was recorded on 22.04.2020 and which is at variance with the initial version recorded in the FIR.

As per counsel the improvement made in the subsequent statement is as regards the date of occurrence now stated as 25.03.2020 instead of 24.03.2020.

Precise submission raised is that such improvement has been made on the side of the complainant as the petitioner who was serving as a gate/fatak operator with the Northern Western Railways Department had produced before the Investigating Agency his presence on duty from 8 AM to 8 PM on 24.03.2020.

It would be apposite to take note that on the previous date of hearing, State counsel had informed the Court that report of the FSL had been received and wherein Spermatozoa had been detected on the *Salwar* of the the victim.

Court was further informed that DNA sample of the accused has been drawn and that report in such regard is still awaited.

During the course of resumed hearing today learned State counsel

has forwarded a report of the Forensic Science Laborator, Haryana, Madhuban, Karnal dated 07.09.2020 and the result of the examination and conclusion drawn therein is to the following effect:-

RESULT OF EXAMINATION

DNA was extracted from item Nos.1&2 and subjected to Autosomal STR, analysis by using Identifiler plus kit. DNA profile obtained from item No.1 is compared with DNA profile of item No.2.

The allelic pattern of item No.1 matches with the allelic pattern of item No.2.

CONCLUSION

The Autosomal STR analysis indicates that DNA profile of seminal stains on source of item No.1 (Salwar) is matching with the DNA profile of blood sample of accused (Source of item No.2)."

The FSL report supports the case of the prosecution.

The allegations against the petitioner are serious and as regards having committed a heinous offence.

Trial is still at the initial stage and the prosecutrix is yet to be examined.

In an overview of the matter, this Court is not inclined to extend benefit of bail to the petitioner at this stage.

Petition dismissed.

(TEJINDER SINGH DHINDSA)
JUDGE

September 14, 2020

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No