

CRM-M-24850-2020

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(PROCEEDINGS THROUGH V.C.)

CRM-M-24850-2020

Date of Decision: September 2nd, 2020

Vinod Kumar

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present Mr. Rajesh K. Dadwal, Advocate
for the petitioner.

Ms. Tanisha Peshawaria, DAG, Haryana.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Petitioner has approached this Court for grant of regular bail by filing this petition under Section 439 of the Code of Criminal Procedure, 1973, in FIR No.60, dated 03.06.2019, registered at Police Station GRP Faridabad, District Faridabad, under Sections 366-A, 376, 302, 201 & 34 of the Indian Penal Code, Section 4 of POSCO Act and 3 of SC/ST Act.

It is the contention of the learned counsel for the petitioner that apart from the allegations in the FIR, there is a disclosure statement of the petitioner, which has been made the basis of the evidence against the petitioner. His contention is that the petitioner, at the relevant time, was only 19 years of age as per the prosecution, although the petitioner claims himself to be a juvenile for which he had moved an application before the Court, which application having been dismissed stands challenged before

this Court. He contends that despite the petitioner having been arrested on 07.06.2019, the trial has not proceeded as no prosecution witness has been examined till date. Counsel contends that there is no likelihood of the trial being proceeded and concluded in near future because of the prevailing circumstances and further, there is another version which has come forth with the application under Section 319 of the Code of Criminal Procedure preferred by the prosecution having been allowed and summoning the co-accused of the petitioner, namely Rinku, who had been found innocent during the investigation. He, thus, prays that the petitioner be granted the concession of bail.

On the other hand, learned counsel for the State submits that it is not only the disclosure statement on the part of the petitioner but there was recovery also effected in pursuance thereto and therefore, it cannot be said that apart from disclosure statement, there is no evidence against the petitioner. That apart, it is asserted that heinous crime has been committed by the petitioner upon a 17 ½ years' old girl, who was not only raped but also killed and that too, brutally by the petitioner. She, however, could not dispute the fact that out of 35 witnesses cited by the prosecution, none has been examined till date despite the charges having been framed on 18.10.2019.

I have considered the submissions made by the learned counsel for the parties and keeping in view the fact that the petitioner is in custody since 07.06.2019 and was, according to the prosecution itself, 19 years of age at the relevant time, with the trial not proceeding because of the

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prevailing circumstances and out of the 35 prosecution witnesses, none having been examined, with an application under Section 319 of Code of Criminal Procedure having been allowed which is further delaying the process of trial, continuation of the petitioner in custody would not serve any useful purpose.

In view the above, this criminal miscellaneous petition is allowed. Petitioner is ordered to be released on bail subject to his furnishing bail and surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate, Faridabad.

Any observation made herein-above shall have no bearing on the merits of the case during the trial in any manner.

September 2nd, 2020
Harish

(AUGUSTINE GEORGE MASIH)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No