

206
IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-26068-2020

Date of decision: 25.09.2020

Nitin

..... Petitioner

V/s.

State of Haryana

..... Respondent

CORAM: - HON'BLE MR. JUSTICE SANJAY KUMAR

Present: Mr. Rahul Rathore, Advocate, for the petitioner.

Ms. Mahima Yashpal, DAG, Haryana.

Sanjay Kumar, J.

The petitioner is one of the accused in FIR No.0687 dated 07.09.2019 on the file of Police Station Model Town, District Panipat, registered under Sections 376-D and 506 IPC and Section 4 of the Protection of Children from Sexual Offences Act, 2012. By way of this petition filed under Section 439 Cr.P.C, he seeks grant of regular bail.

The Deputy Superintendent of Police, Head Quarter, Panipat, filed a reply in this case. Therein, he stated as follows: The subject FIR was registered upon the complaint lodged by the mother of the victim-girl on 07.09.2020. She had stated that her daughter, aged 16 years, was forcibly taken away on 05.09.2019 during the evening hours by three persons on a motorcycle and was subjected to rape. She returned on that night and

disclosed what had happened on the next day. She named the three boys who had committed rape upon her. The Deputy Superintendent stated that the victim-girl was subjected to medical examination and her statement was also recorded under Section 164 Cr.P.C. The petitioner and Mohit, the co-accused, were arrested on 07.09.2019 and they were subjected to medical examination. Ravi, the third accused in this case, was arrested on 15.10.2019 and he was also examined by the Medical Officer at the Civil Hospital, Panipat. The final investigation report was prepared on 31.10.2019 and filed in the Court of the learned Judicial Magistrate First Class, Panipat, on 01.11.2019. Charges were framed under Section 376-DA, 363 and 506 IPC and Section 6 of the POCSO Act. The case is pending trial before the learned Additional Sessions Judge, Panipat. Nine out of the twenty four listed prosecution witnesses have been examined. The Forensic Science Laboratory, Haryana, Madhuban, District Karnal, furnished report dated 16.10.2019 certifying that human semen was detected on the underwear of the victim. The DNA Analysis Report dated 13.02.2020 furnished by the Forensic Science Laboratory, Haryana, Madhuban, District Karnal, confirmed that the DNA profile of the seminal stains on the underwear matched with the DNA profile of the co-accused, Ravi, but not the DNA profiles of either the petitioner or the other accused, Mohit. The Deputy Superintendent of Police admitted that the victim-girl as well as the complainant, her mother, had turned hostile during the trial but contended that the petitioner was not entitled to lenience as he was involved in the commission of a heinous offence.

Mr. Rahul Rathore, learned counsel for the petitioner, would point out that the petitioner has been in custody since 07.09.2019 and that the medical evidence clearly showed that he was not involved in the rape. He would therefore contend that the petitioner should be extended the benefit of doubt at this stage, as the trial would be delayed due to the prevailing situation caused by the Covid-19 pandemic. He would accordingly pray for grant of bail to the petitioner.

Though Ms. Mahima Yashpal, learned Deputy Advocate General, Haryana, would oppose this plea, she would concede that the material witnesses have already been examined and there is no possibility of the petitioner tampering with the evidence or the witnesses at this stage.

As to whether or not the petitioner had any role to play in the commission of the offence by Ravi, the co-accused, would have to be determined by the trial Court after a full-fledged trial. As matters stand, the medical evidence supports the innocence of the petitioner in so far as the actual physical commission of the offence is concerned.

Given the circumstances stated *supra* and more particularly, the fact that the petitioner is not shown to have participated in the physical act of committing rape upon the minor victim-girl, he would be entitled to relief, subject to conditions. This relief is being granted keeping in mind the fact that the trial is bound to be delayed, owing to the present situation caused by the pandemic.

The petition is accordingly allowed directing the release of the petitioner on regular bail in FIR No.0687 dated 07.09.2019 on the file of Police Station Model Town, District Panipat, upon his furnishing a personal

bond for a sum of Rs. 50,000/- along with two sureties for a like sum each to the satisfaction of the Illaqa/Duty Magistrate concerned. Further, the petitioner shall not offer any inducement, threat or promise to any person connected with the case.

(SANJAY KUMAR)
JUDGE

25.09.2020

rakesh
whether speaking/non speaking : Yes/no
whether reportable/non reportable : Yes/no