

CRM-M-28479-2020

Date of decision: 23.09.2020

Bijender Kumar

....Petitioner

versus

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH**Present:** Mr. K.L. Saini, Advocate
for the petitioner.**FATEH DEEP SINGH, J.(ORAL)**

Due to outbreak of pandemic COVID-19, the instant case is being taken up for hearing through video conferencing.

Notice of motion to the respondent-State.

Mr. B.S. Virk, DAG, Haryana puts in appearance and accepts notice on behalf of the respondent-State. Copy supplied.

The petitioner-Bijender Kumar has come up in this second regular bail application (first one having been dismissed as withdrawn vide order dated 03.06.2020) under Section 439 Cr.P.C. in a case bearing FIR No.36 dated 07.03.2019 under Sections 363, 366-A, 342, 506 and 34 of the Indian Penal Code and Sections 8 and 18 of the POCSO Act Police Station Pillukhera, District Jind.

The present case was got registered by Nirmala, the

mother of minor girl, claimed to be aged around 15 years (in fact alleged to be 15 years 06 months by defence) intimating the police that her daughter left the house during intervening night of 06/07.03.2019. It is subsequent thereto the girl was recovered on 08.03.2019 and in her statement under Section 164 Cr.P.C. has named the petitioner her boyfriend who has taken her away along with co-accused/non-applicants-Ajay and Purshotam, since released on bail and who tried to ravage her. In consequence of which, the petitioner was arrested on 10.03.2019.

The contentions of learned counsel for the petitioner that the petitioner is behind the bars since 01 year 06 months and 10 days and co-accused have already been allowed bail and there is no allegation of actual rape.

The learned State counsel has opposed the bail on the grounds of seriousness of the allegations and if allowed bail, there is every likelihood that the petitioner might influence the trial.

Admittedly, the victim on her own eloped at odd hours, there is no medical evidence as per the admission of the learned State counsel to corroborate the allegations of rape. The petitioner is behind the bars for more than 1 ½ years and in view of the prevalent pandemic situation together with the fact that culpability if any would be determined at the time of trial impels this Court to release the petitioner on bail as an exceptional circumstance.

Accordingly, the petitioner is ordered to be released on

regular bail to the satisfaction of Chief Judicial Magistrate/Duty Magistrate concerned.

The petition stands disposed off accordingly.

23.09.2020
Neha

(FATEH DEEP SINGH)
JUDGE

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