

**218 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH
(through video conferencing)**

Decided on : 17.12.2020

CRM-M-29952-2020

Irshad Petitioner

Versus

State of Haryana Respondent

CRM-M-29800-2020

Mustak Petitioner

versus

State of Haryana Respondent

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Sarfraj Hussain, Advocate
for the petitioner in CRM-M-29952-2020.

Mr. Ferry Sofat, Advocate
for the petitioner in CRM-M-29800-2020.

Mr. Rajiv Goel, DAG, Haryana.

Manjari Nehru Kaul, J.

This order will dispose of two CRM-M No.29952 and 29800 of 2020 as both have arisen out of the same FIR. Brief facts of the case are taken from CRM-M-29952-2020.

Instant petition has been filed under Section 439 Cr.PC for grant of regular bail to the petitioner in case FIR No.457 dated 28.08.2015 registered under Section 376-D IPC,1860 at Police Station Punhana District Nuh (Mewat).

Learned counsel for the petitioner(s) inter alia contends that the petitioner(s) -Irshad, who has been in custody since 18.06.2019 and

Mustak, who has been in custody since 22.09.2019, have been falsely implicated in the case in hand as the prosecutrix did not name the petitioners in the FIR in question and the name of the petitioners along with their specific role came up for the first time in the alleged crime only in the statement of the prosecutrix recorded under Section 164 Cr.PC. It has further been contended that petitioner Irshad rather came to the rescue of the prosecutrix as it was he who telephoned her father to inform him about the whereabouts of the prosecutrix and asked him to pick her up. Hence, a prayer has been made for extending the concession of regular bail to the petitioner(s) as the trial is unlikely to conclude in the near future as only one out of 17 prosecution witnesses has been examined so far.

Per contra, learned State counsel while opposing the prayer of learned counsel for the petitioner on instructions from ASI Ashok Kumar has submitted that both the petitioners were active participants in the alleged crime alongwith the other accused, which is apparent not only from the contents of the FIR in question but also from the statement of the prosecutrix recorded under Section 164 Cr.PC before the Magistrate. While inviting the attention of this Court to the statement of the prosecutrix recorded under Section 164 Cr.PC, learned State counsel has submitted that the prosecutrix had categorically stated that she was raped repeatedly one after another by all the accused including the petitioners. He has further submitted that no doubt it was also stated by her that it was after 5-6 days of being continuously raped, one of the accused telephoned her father and asked him to take his daughter from the Kishan Ganj railway station but she had not absolved that person of committing rape upon her.

Heard.

Prima facie there are serious allegations levelled against the petitioner(s) for which they do not deserve the concession of regular bail. Accordingly, the petitions stands dismissed. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

Since the petitioners have been in custody for almost 1½ years and the trial has been proceeding at a very slow pace, the trial court is directed to expedite the trial and endeavour to conclude the same as early as possible preferably within six months from the date normal hearing resumes before the Courts below.

(MANJARI NEHRU KAUL)
JUDGE

17.12.2020

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Whether speaking/reasoned:	Yes/No
Whether reportable :	Yes/No