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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M No.33834 of 2020 (O&M)

Decided on: 15.12.2020

Shiva

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. J.S. Jaidka, Advocate
for the petitioner.

Mr. Joginder Pal Ratra, DAG, Punjab.

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in this petition is for grant of regular bail to the petitioner under Section 439 of the Code of Criminal Procedure (in short 'Cr.P.C.') in FIR No.90 dated 30.06.2018, for offence punishable under Sections 363, 366 of the Indian Penal Code, 1860 (in short 'IPC') (Sections 4 of the POCSO Act and 376 IPC added later) registered at Police Station Haibowal, District Ludhiana.

Counsel for the petitioner has argued that as per the allegations in the FIR, the petitioner has enticed away the daughter of the complainant, who was aged about 16 years and committed rape upon her. It is further submitted that the petitioner was arrested on 03.07.2018, challan stands presented and charges were framed on 18.02.2019 and out of 17 prosecution witnesses only 06 Pws have been examined. It is also submitted that the prosecutrix in her statement recorded under Section 164 Cr.P.C. on 07.07.2018 by the Illaqa Magistrate has stated that she of her own volition had accompanied the

CASE HEARD THROUGH VIDEO CONFERENCING

petitioner on 21.06.2018 to Delhi where they stayed at his relatives place and no allegations of rape were fastened against the petitioner. It is also submitted that later on, under the pressure of her parents, the present FIR was registered.

Counsel for the State, on instructions from the Investigating Officer, has not disputed the factual position but opposed the prayer for bail. Counsel for the State has also placed on record the status report by way of affidavit of the Assistant Commissioner of Police (West) Ludhiana.

Without commenting anything on merits of the case, considering the fact that the petitioner is in long custody for about 02 years and 06 months; challan stands presented; charges have been framed; the custodial interrogation of the petitioner is not required and the conclusion of the trial will take some time due to COVID-19 situation, this petition is allowed and the petitioner is directed to be released on bail subject to his furnishing bail/surety bonds to the satisfaction of the trial Court/Illaq Magistrate/Duty Magistrate.

However, it will be open for the prosecution to apply for cancellation of bail of the petitioner, in case he is found involved in any other case or misusing the concession of bail, in any manner.

(ARVIND SINGH SANGWAN)
JUDGE

15.12.2020

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Whether speaking/reasoned

Yes/No

Whether reportable:

Yes/No