

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

206

CRM-M-32795 of 2020 (O & M)
Date of decision :-14.12.2020

Dev Dutt

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. B.K. Bagri, Advocate for the petitioner.

Mr. Rajiv Sidhu, DAG, Haryana for the respondent-State.

SUVIR SEHGAL, J.

The hearing of this petition has been taken up through video conferencing on account of outbreak of Coronavirus (Covid-19) pandemic.

CRM-30328-2020

Prayer in the application is for placing on record and for exemption from filing of certified copies of the statement with the cross-examination of the prosecutrix as Annexure P-4 and a photograph as Annexure P-5 in pursuance to order dated 26.10.2020 passed by this Court.

Application is allowed. Annexures P-4 and P-5 are taken on record.

Main Case

Instant petition has been filed under Section 439 of the Code of Criminal Procedure seeking grant of regular bail to the petitioner in case FIR No.64 dated 18.03.2019 registered under Sections 363, 366-A, 342 of IPC,

Sections 4, 6 and 17 of Protection of Children from Sexual Offences Act, 2012 and Section 3 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 at Police Station Kosli, District Rewari, Annexure P-1.

An FIR was registered on a complaint by the father of the prosecutrix wherein he stated that on 18.03.2019, his daughter, who was a student of Class 12th, had not returned home from school. The prosecutrix, who later returned home, was produced before the police on the next day by the complainant and her statement under Section 164 Cr.P.C. was recorded on 19.03.2019, Annexure P-2, wherein she alleged that she had been raped by Dev Dutt, the accused-petitioner. The petitioner was arrested on 21.03.2019.

Counsel for the petitioner has argued that a false case has been lodged against the petitioner and that the petitioner and the prosecutrix were having an affair. He submits that the petitioner and the prosecutrix had gone out together on a number of occasions and they had an intimate relationship. He has drawn the attention of the Court to the photograph, Annexure P-5. He has placed reliance upon the order whereby co-accused, Tula Ram, has been granted bail vide order dated 15.05.2020. He submits that the prosecutrix has already been examined in the Court and the trial is not progressing any further due to the outbreak of the pandemic, therefore, the petitioner deserves to be released on bail.

Opposing the petition, State counsel upon instructions from Inspector Shiv Charan, submits that after the presentation of the challan in April, 2019, charge has been framed on 25.04.2019. The prosecutrix in her statement recorded under Section 164 Cr.P.C. as well as in her statement

before the Court, has levelled allegations of rape against the petitioner. As per his instructions, the medical report has been received, which is also against the petitioner.

I have heard the counsel for the parties and considered their rival submissions.

Allegations of heinous crime of committing rape have been levelled by a hapless 17 years old girl against the petitioner. Both in her statement, Annexure P-2, recorded under Section 164 Cr.P.C. as well as in her testimony as prosecution witness, Annexure P-4, the prosecutrix has described in detail the horrific incident. She has alleged that the petitioner had given her a sedative-spiked cold drink after which she became unconscious. The petitioner then raped her and when she resisted, she was given an injury on her head. She further stated that she had been gagged by the petitioner. The evidence of a prosecutrix in cases of rape, sexual assault etc., is enough for the conviction of the accused and the same does not require any corroboration. The Hon'ble Supreme Court in **State of Punjab versus Gurmeet Singh, (1996) 2 SCC 384** has placed the statement of a prosecutrix on a much higher pedestal than that of an injured witness.

The reliance of the counsel for the petitioner upon the photograph, Annexure P-5 is of no help as the allegations against the petitioner are very categorical. Still further, the order granting bail to the co-accused also does not advance the case of the petitioner as there is no allegation against the co-accused of having committed rape.

Keeping in view the above facts and circumstances, the nature of allegations and the gravity of the offence, this Court does not deem it appropriate to grant regular bail to the petitioner.

The petition is, accordingly, dismissed.

It is clarified that any observation made hereinabove shall not be construed to be an expression on the merits of the case

14.12.2020
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(SUVIR SEHGAL)
JUDGE

Whether Speaking/reasoned : Yes/No
Whether Reportable : Yes/No