

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

CRM-M No.38139 of 2020 (O&M)
Date of Decision.07.12.2020
(Heard through VC)

Ashok Kumar @ Shoki

...Petitioner

Vs

State of Haryana

...Respondent

CORAM:HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. S.S. Momi, Advocate
for the petitioner.

Mr. Kirpal Singh Thakur, AAG, Haryana.

-.-

JAISHREE THAKUR J. (ORAL)

This is a petition that has been filed for grant of regular bail to the petitioner in case FIR No.102 dated 13.06.2019 registered under Sections 363, 366-A, 366, 376, 506 IPC and Section 4 of POCSO Act, 2012 at Police Station Rajaund, District Kaithal.

Learned counsel for the petitioner *inter alia* would contend that he has been falsely implicated in the matter as would be evident from the fact that the prosecutrix was not recovered from his custody. In fact the FIR was registered against one Govind son of Satish, who stands exonerated on 20.06.2020. It is argued that the prosecutrix was recovered on 16.09.2019, on which date she suffered a statement before the JMIC that she had gone to Mumbai because her family members wanted to perform her marriage with some other person. She was taken for medical examination on the same day where the prosecutrix suffered a statement that she did not want to have her medical examination done, however, the petitioner herein has been roped in on a supplementary statement given by the mother that he had forcibly abducted her daughter. It is also argued that the prosecutrix subsequently in her

statement dated 17.02.2020 before the Special Court, Kaithal stated that she had been subjected to rape by the present petitioner.

It is further argued by counsel for the petitioner that the petitioner is in custody since 04.10.2019 and the material witness namely the prosecutrix has already been examined, while further contending that one DNA report has already been made available, which would not help the case of prosecutrix. The trial is likely to take some time to conclude as out of 21 witnesses cited, only two witnesses have been examined and therefore, seeks concession of bail to the petitioner.

Learned counsel appearing on behalf of the respondent-State as well as the complainant oppose grant of regular bail to the petitioner by contending that the petitioner is involved in heinous crime and therefore, is not entitled to concession of regular bail.

I have heard learned counsel for the parties and have perused the paper book.

Keeping in view the fact that statement of the prosecutrix has been recorded and the trial is likely to take some time to conclude as out of 21 witnesses cited only 2 have been examined, no useful purpose would be served by keeping the petitioner behind bars. The instant petition is allowed and the petitioner is directed to be released on regular bail on execution of adequate personal/surety bond to the satisfaction of concerned trial Court/Duty Magistrate. However, any observation made herein shall not be construed to be an expression on merits of the case.

(JAISHREE THAKUR)
JUDGE

December 07, 2020

Pankaj*

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No