

CRM-M-39353 of 2020

**215IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-39353 of 2020
Date of decision: 07.12.2020

Pardeep and another

.....Petitioners

vs.

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. Tajender K. Joshi, Advocate, for the petitioners.
Mr. Pradeep Prakash Chahar, DAG, Haryana.

DEEPAK SIBAL, J. (ORAL)

Case taken up through video conferencing.

The present petition has been filed under Section 439 Cr.P.C. for the grant of regular bail in FIR No.06 dated 09.01.2020 registered under Sections 354B, 376D and 506 IPC at Police Station Sector 53, Gurugram.

Briefly stated, the case of the prosecution is that on 08.01.2020 at about 10/10.30 p.m. when the prosecutrix was standing at a metro station in Gurugram petitioner No.1 Pardeep and co-accused Mohan Lal came and started talking with the prosecutrix; in the meanwhile, an auto came in which Pardeep and Mohan Lal offered to give the prosecutrix a lift to Delhi which she agreed to; thereafter, she was taken to a place near Shyam Sweets, village Vajirabad, Gurugram, where petitioner No.2 Shyam was present; in a room near Shyam Sweets the petitioners then raped the prosecutrix; in the morning the prosecutrix called the police and

CRM-M-39353 of 2020

when the petitioners and their co-accused came to know about the call they fled from the spot.

Learned counsel for the petitioners contends that the petitioners have been falsely implicated in the FIR; the prosecutrix while appearing as a witness before the Trial Court as PW1 has specifically denied that the petitioners committed rape upon her; there is no other criminal case in which the petitioners are involved; the petitioners have been in custody since 09.01.2020; through the orders of this Court dated 12.11.2020 co-accused Mohan Lal, who approached this Court through CRM-M-36917 of 2020 – Mohan v. State of Haryana, has been granted regular bail and that the petitioners' trial is not likely to conclude in the near future especially in the present circumstances when the world is facing the Covid-19 pandemic.

Learned State counsel while admitting to the fact that the prosecutrix has turned hostile before the Trial Court and that there is no other criminal case in which the petitioners are involved as also the period of their incarceration opposes the grant of bail to the petitioners on the ground that they are alleged to have committed serious offences including rape.

The petitioners have been in custody since 09.01.2020; the prosecutrix while appearing before the Trial Court as PW1 has categorically stated that the petitioners did not commit rape on her and that she had specifically refused to identify the petitioners; even on being cross-examined by the State the prosecutrix denied that the petitioners ever threatened her/raped her; there is no other criminal case in which the

CRM-M-39353 of 2020

petitioners are involved and the petitioners' trial is not likely to conclude in the near future especially in the present circumstances when the world is facing the Covid-19 pandemic.

Keeping in view the totality of the above facts, the present case is considered to be a fit one in which the petitioners be directed to be released on regular bail. Resultantly, subject to the satisfaction of the CJM/Duty Magistrate, Gurugram, the petitioners are directed to be released on bail.

It is clarified that the above observations have been made only for the limited purpose of deciding the present regular bail application and the same would not be construed to be an expression of opinion on the merits of the case.

December 07, 2020
R.S.

(Deepak Sibal)
Judge

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No