

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

227

CRM-M-40882-2020
Date of decision: 14.12.2020

Choti @ Rohtash

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Yashveer Kharb, Advocate
for the petitioner.

Ms. Geeta Sharma, DAG, Haryana
for the respondent-State.

ARUN KUMAR TYAGI, J (ORAL)

(The case has been taken up for hearing through video conferencing.)

The petitioner has filed the present (first) petition under Section 439 of the Code of Criminal Procedure, 1973 (for short, “the Cr.P.C.”) for grant of regular bail in case FIR No. 446 dated 05.06.2020 under Sections 6 and 14 of the Protection of Children from Sexual Offences Act, 2012 and Section 506 of the Indian Penal Code, 1860 (for short, “the IPC”) registered at Police Station Model Town, District Panipat to which Section 376-AB of the IPC was added later on.

The above said FIR was registered on written complaint submitted by father of the victim girl child (hereinafter referred to as the prosecutrix) alleging that his daughter, who is aged about 12 years, informed him that about one month back she had gone to the house of Sudesh for playing where Sudesh was not present and her son-in-law Mandeep was present. On finding the prosecutrix alone, Mandeep

committed wrong act with her and that the occurrence was recorded in mobile phone by transgender Choti (the petitioner) from whom he had taken the same. During investigation statement of the prosecutrix was recorded under Section 164 of the Cr.P.C. In her statement, the prosecutrix alleged that she was called to her house by Aarti on the pretext of offering tea and when co-accused Mandeep committed rape Aarti and Choti (the petitioner) did not save her. Rather, Choti (the petitioner) videographed the incident and later made it viral and defamed her. On completion of investigation the police filed challan against Mandeep, Aarti and Choti (the petitioner).

Pursuant to supply of advance copy of the petition, learned State Counsel has appeared and opposed the petition. However, no reply has been filed by the respondent-State.

I have heard learned Counsel for the petitioner and learned State Counsel and gone through the record.

Learned Counsel for the petitioner has submitted that the petitioner had recorded the occurrence in mobile phone and had given the video to father of the prosecutrix who lodged the FIR on the basis thereof. Subsequently, the petitioner has been falsely implicated in the case. Co-accused Mandeep who is alleged to have raped the prosecutrix has been granted regular bail by Co-ordinate Bench and co-accused Aarti has been granted bail by this Court vide orders dated 28.10.2020 and 27.11.2020 respectively. The trial is likely to take long time due to restrictions imposed to prevent the spread of COVID-19. No useful purpose will be served by further detention of the petitioner in custody.

Therefore, the petitioner may be granted regular bail.

On the other hand, learned State Counsel has argued that in view of nature of accusation and gravity of offence, the petitioner does not deserve the grant of regular bail. Therefore, the petition may be dismissed.

Keeping in view the facts and circumstances of the case, nature of accusation against the petitioner, parity with co-accused Mandeep and Aarti who have been granted bail by Co-ordinate Bench and this Court vide orders dated 28.10.2020 and 27.11.2020 respectively and the fact that trial is likely to take long time due to restrictions imposed to prevent the spread of COVID-19 but without commenting on merits of the case, I am of the considered view that the petitioner deserves the concession of regular bail.

Therefore, the petition is allowed and the petitioner is ordered to be released on regular bail on furnishing of requisite personal and surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate concerned.

14.12.2020

Vinay

(ARUN KUMAR TYAGI)
JUDGE

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