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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-2943-2021 (O&M)

Date of Decision: 06.10.2021

YOGESH

.....Petitioner

V/s.

STATE OF HARYANA

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ.

Present: Mr. Vinod Ghai, Senior Advocate with
Ms. Kanika Ahuja and Mr. Edward Augustine George, Advocates
for the applicant-petitioner.

Mr. B.S. Virk, DAG, Haryana.

RAJESH BHARDWAJ, J. (Oral)

CRM-33603-2021

This application is filed for placing on record the documents
Annexure P-11 and P-12 in the main case.

Application is allowed and the documents Annexure P-11 and
P-12 are taken on record subject to all just exceptions.

CRM-M-2943-2021

The Matter has been taken up through video conferencing via
Webex facility in the light of the Pandemic Covid-19 situation and as per
instructions.

Petitioner has approached this Court by way of filing petition
under Section 439 Cr.P.C. seeking grant of regular bail in FIR No.67 dated
04.06.2019, registered under Sections 366-A, 354, 354-D, 506 and 201 of
the Indian Penal Code, 1860, Section 6 of the Protection of Children from
Sexual Offence Act, 2012 and Section 67 of the Information Technology
Act, 2000 at Police Station Women, Narnaul, District Mahendergarh,
Haryana.

Learned counsel for the petitioner has contended that the FIR in question has been registered by the victim on the allegations that she is a student of 12th Standard and used to go to Lovekesh for taking tuition. On 22.09.2017, Yogesh mixed something in the Cold Drink and served and took her to a P.G., where she was raped. It was alleged that the incident was narrated to her teacher Lovekesh who had told her that he will treat her pain and will also teach lesson to the Yogesh. After the class, Lovekesh used to keep her at home and on the pretext of treatment, he used to make bad acts with the victim. It was alleged that both the accused connived with each other and had been physically exploiting the victim. On the basis of the same, it was prayed that legal action be taken against the petitioner. Investigation was commenced. Challan was presented and thereafter, the trial Court took the cognizance of the case.

Learned senior counsel for the petitioner has vehemently contended that there are three accused in this case whereas, no offence is made out against the petitioner. He would submit that the false implication of the petitioner is evident from the fact that the victim as well as her father, both have been examined by the trial Court on 20.09.2021. The copies of their deposition, which are placed on record today itself, would show that the victim has been examined as PW-1 and her father as PW-2. The deposition would further show that both of them have not supported the case of the prosecution and thus, declared hostile.

Learned Senior counsel submits that the petitioner is behind bars since 15.10.2020 and the material witnesses have not supported the case of the petitioner coupled with the fact that the co-accused have already

been granted bail by the trial Court and thus, incarceration of the petitioner is totally unwarranted.

Mr. B.S. Virk, DAG, Haryana for the State, though, has submitted that the petitioner is involved in the heinous offence but he candidly accepts that victim and her father have not supported the case of the prosecution. He submits that in all, there are 18 witnesses, out of which, 02 witnesses are examined. He would further affirm that the co-accused are already on bail.

I have heard learned counsel for the parties and perused the record.

The Court without commenting upon the merits of the case confine itself with the prayer made for regular bail by the learned counsel for the petitioner. It is not disputed that the petitioner is behind bars since 15.10.2020 and the victim and her father have not supported the case of the prosecution. There are 18 prosecution witnesses out of which, 2 witnesses have been examined and the trial would take some time to conclude. Accordingly, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail/surety bonds to the satisfaction of the concerned trial Court/Duty Magistrate. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

October 6, 2021

Ess Kay

**[RAJESH BHARDWAJ]
JUDGE**

<i>Whether speaking / reasoned</i>	:	<i>Yes /No.</i>
<i>Whether Reportable</i>	:	<i>Yes/No</i>