

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

111+221

CRM-5337-2021 in/and
CRM-M-3037-2021(O&M)

Date of Decision:24.02.2021

Lala Ram

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR.JUSTICE HARI PAL VERMA.

Present: Mr. Baljeet Beniwal, Advocate,
for the petitioner.

Ms. Gaganpreet Kaur, A.A.G., Haryana.

HARI PAL VERMA, J.(Oral)

The matter has been taken up for hearing through video conferencing due to outbreak of COVID-19.

CRM-5337-2021

Prayer in this application filed under Section 482 Cr.P.C. is for placing on record the affidavits(Annexures P-4 & P-5).

For the reasons stated in the application, same is allowed and the the affidavits(Annexures P-4 & P-5), are permitted to be taken on record.

CRM-M-3037-2021

Prayer in this petition filed under Section 439 Cr.P.C. is for grant of regular bail to the petitioner in FIR No.95 dated 11.12.2019 under

Sections 365, 376, 120-B, 354-A, 506 IPC and Sections 6, 8 of the POCSO

Act, 2012, registered at Police Station Women Palwal, District Palwal.

The allegation against the petitioner is that on 08.10.2019 at about 09.30 PM, when the prosecutrix was retuning back to her house, she came across with the petitioner on her way. The petitioner gagged her mouth and dragged her behind the house. The petitioner forcibly attacked her and sexually assaulted her. During this process, the petitioner snapped her and had threatened her with dire consequences of extinguishing her life, in case, the matter is revealed to anyone else. He also threatened her to upload the material on the internet. She could not disclose this ordeal to anyone else, but she revealed her complete ordeal to her uncle and in this manner, the present case was registered against the petitioner.

Learned counsel for the petitioner submits that apart from the fact, the alleged incident has taken place on 08.10.2019, the present FIR was registered against the petitioner on 11.12.2019 i.e. after more than two months. There is no medical evidence, so as to support the case of the prosecution, as no injury was found on her person. Moreover, now parents of the prosecutrix have submitted their respective affidavits denying the very incident. He refers to the affidavits(Annexures P-4 & P-5) attached with the application i.e. CRM-5337-2021. Petitioner is in custody since 15.05.2020 and trial in case is not likely to be concluded in the near future and chances of conviction are quite bleak.

Learned State Counsel, on instructions from ASI Rachna, does not dispute the custody period of the petitioner. However, she submits that the prosecutrix in the case is a minor girl and she has deposed against the petitioner in her statement recorded under Section 164 Cr.P.C. She further argued that the affidavits furnished by the parents of the prosecutrix may be

under some pressure of the accused-party, as there is already threat by the petitioner to upload the photographs of the prosecutrix on the internet. Hence, the petitioner is not entitled for bail.

Heard learned counsel for the parties.

The alleged incident has taken place on 08.10.2019 when the petitioner has committed sexual assault upon the prosecutrix. The present FIR was registered on 11.12.2019 and there is no medical evidence, so as to support the case of the prosecution that she was subjected to rape as no injury was found on her person. Moreover, parents of the prosecutrix have furnished their affidavits(Annexure P-4 & P-5) and have rather denied the incident. In this manner, culpability of the petitioner is yet to be established during the course of trial. Petitioner is in custody since 15.05.2020 and trial in the case is not likely to be concluded in the near future, thus, this Court deems it appropriate to admit the petitioner on bail.

Accordingly, the present petition is allowed and the petitioner is admitted on regular bail, subject to his furnishing adequate bail bonds/surety bonds to the satisfaction of trial Court/Duty Magistrate.

However, it is made clear that the observations made hereinabove shall not be construed as an expression on the merits of the case and the trial Court shall proceed with the trial independently without being influenced by the order of bail passed by this Court.

February 24, 2021
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(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No