

In the High Court for the States of Punjab and Haryana at Chandigarh

CRM-M-18042-2021

Date of Decision: December 07, 2021

Ajay @ Gaurav

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Dr. Anmol Rattan Singh Sidhu, Senior Advocate with
Mr. Pratham Sethi, Advocate,
for the petitioner.

Mr. Zorawar Singh Chauhan, DAG, Haryana.

Mr. Aditya Jain, Advocate,
for the complainant.

*(The case has been taken up through video conferencing on
account of Covid-19 pandemic)*

Vivek Puri, J.

In this petition, Ajay @ Gaurav-petitioner is seeking regular bail in case FIR No. 73, dated 10.08.2020, under Sections 363, 506 IPC and Section 6 of POSCO Act, registered at Police Station Women Police Station, Manesar, District Gurugram.

Briefly, the FIR has been registered on the basis of the statement of the father of the victim alleging that the victim is aged about 15 years. The petitioner along with co-accused Ran Singh took away the minor female victim in a car by befooling her, harassed her physically and

mentally, committed rape and threatened to kill her and her family members in the event she disclose the incident to anyone.

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

It has been contended by the learned senior counsel for the petitioner that the similarly placed co-accused Ran Singh has been granted concession of bail by the learned Additional Sessions Judge, Gurugram and on the principle of parity, the petitioner also become entitled to bail. Furthermore, there is a delay of 70 days in lodging the FIR, the statement of the victim has already been recorded, the conclusion of the trial is likely to take time and no fruitful purpose would be served by detaining him in custody. It has been further stated that while granting bail to Ran Singh @ Ranvir co-accused it was observed that in the statement of the girl child recorded under Section 164 Cr.P.C., the victim had not given the name of both the accused. The complainant had moved an application for cancellation of bail granted to Ran Singh and the same has been dismissed in terms of order dated 17.08.2021 by the learned Special Judge. Even in the said order, it has been observed that on account of inadvertence, it has been mentioned in the order granting bail that Ran Singh was not named in the statement under Section 164 Cr.P.C. It has been argued that names of both the accused find mentioned in the statement of the victim recorded under Section 164 Cr.P.C. and even during the course of trial.

On the contrary, the bail application has been resisted by the learned State counsel and the learned counsel for the complainant on the score that 10 out of 14 witnesses have already been examined, the case of

the petitioner cannot be termed to be at par with that of the co-accused Ran Singh and moreover, a petition has already been instituted in this Court seeking cancellation of bail of Ran Singh.

It is significant to note that the allegations with regard to the commission of forcible sexual intercourse have been leveled by the victim, who is aged about 15 years. Merely because Ran Singh co-accused has been granted bail cannot be termed to be circumstance to extend the concession of bail to the petitioner on parity. There are certain significant circumstances which distinguish the case of the petitioner from the case of co-accused Ran Singh. Although the victim has given the names of both the accused in her statement, but significantly in her statement recorded at the time of medical examination, she has only given the name of the petitioner and has not specified the name of the co-accused Ran Singh. It is pertinent to note that even in the order dated 17.08.2021 vide which the learned Special Judge had dismissed the application for cancellation of bail of Ran Singh @ Ranvir, it has been observed that the case of Ran Singh @ Ranvir cannot be equated with the petitioner as the name of the petitioner was mentioned at the first instance while giving history to the Medical Officer at the time of her medico legal examination. It has also been observed in the said order that Ran Singh @ Ranvir had never met the victim, called her, contacted her and visited her. On the contrary, there is categoric version of the victim in the statement recorded under Section 164 Cr.P.C. to the effect that the petitioner had been on visiting terms to her house, at his instance, she had administered the tablets by mixing the same in the food to her parents and brother and

subsequently, he took the victim in a car by pressing her mouth. In these set of circumstances, the case of the petitioner cannot be termed to be at par with Ran Singh @ Ranvir co-accused.

The effect of delay of 70 days in lodging the FIR will be seen by the trial Court at the appropriate stage, particularly because there is categoric version in the FIR that the accused threatened to kill the victim and her family members in the event, she disclosed the incident to anyone. Even this aspect has emerged in the statement of the victim under Section 164 Cr.P.C., wherein it is also emerging that the accused had also prepared a video of the victim.

Moreover, the out of fourteen witnesses have already been examined and there is nothing to suggest that trial is getting delayed which may result in any prejudice to the petitioner.

Keeping in view the totality of the circumstances, no justified ground is made out to extend the concession of bail to the petitioner.

Dismissed.

December 07, 2021
vkd

(Vivek Puri)
Judge

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