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THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-24010-2021 in/and
CRM-M-20809-2021 (O&M)
Date of decision : October 05, 2021

Bindu

.....Petitioner

Versus

State of Haryana

....Respondent

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Nipun Vashist, Advocate for the petitioner.

Mr. Sharan Sethi, Addl. AG, Haryana.

LISA GILL, J.

This matter is being taken up for hearing through video conferencing due to outbreak of the pandemic, COVID-19.

CRM-24010-2021

Prayer in the application is for placing on record MLR and deposition of victim as Annexures P2 and P3. Same are taken on record subject to just exceptions. Filing of certified copy thereof is exempted.

Application is disposed of.

CRM-M-20809-2021 (O&M)

This is the petitioner's second application seeking bail pending trial in FIR No. 152 dated 23.11.2019 under Section 4 of Protection of Children from Sexual Offences Act (for short – 'POCSO Act') and Section 506 IPC registered at Police Station Women West, Gurugram, Haryana.

Abovesaid FIR was registered on a statement of mother of the victim. It is stated therein that victim alongwith her mother was residing in a house at village Sirhol on rent. Complainant alongwith her husband, who was working with

a Company and their four daughters and two sons were living together. Complainant was working as domestic help. Victim is stated to be the youngest daughter, aged 12 years studying in class 5th. It is further stated that petitioner accused was residing in a room adjacent to the room, which had been taken on rent by the complainant and her family. Petitioner is alleged to have called the victim to his room on 21.11.2019 at 7.00 p.m. and committed rape upon her. It is further alleged that he threatened to eliminate the victim if she disclosed the incident to anyone. Victim thereafter suffered from fever, started weeping and ultimately revealed the incident to the complainant. FIR was, thus, lodged on 23.11.2019.

Learned counsel for the petitioner vehemently argues that an absolutely false and incorrect FIR has been lodged against the petitioner because he was seeking return of Rs. 60,000/- which he had lent to the complainant's husband. Petitioner, it is contended, has been falsely implicated solely due to this reason. It is further submitted that place of occurrence is a triple storey building, having more than 14 rooms on each floor and there are a number of families residing on each floor, therefore, it is not possible for commission of such an offence in the manner as alleged. Petitioner, it is submitted, at the alleged time of occurrence, was selling momos alongwith his roommates. Moreover, the alleged victim has already testified before the learned trial Court. Petitioner, it is further submitted, is in custody since 23.11.2019, therefore, no useful purpose would be served by keeping the petitioner incarcerated any longer. It is, thus, prayed that this petition be allowed.

I have heard learned counsel for the parties and have gone through the file including testimony of the victim before the learned trial Court.

Victim, who testified on 23.02.2021 before the learned trial Court, has supported the prosecution version and has in fact given graphic details of the incident in question. The fact that no injury as such was found on the person of the victim as per MLR, cannot per se be a ground for affording concession of bail to the petitioner. As per medical record, it is mentioned that possibility of sexual assault cannot be ruled out. Victim, who is admittedly about thirteen (13) years old, has duly identified the accused. It is informed that eleven out of fifteen witnesses have been examined.

Keeping in view the facts and circumstances as above, I do not find any ground to afford concession of bail to the petitioner in this matter.

Present petition is, accordingly, dismissed.

However, in the given factual matrix of the case as well as in view of the provisions of Section 35 of the POCSO Act, learned trial Court to conclude the trial in an expeditious manner. It is clarified that there is no expression of opinion on the merits of the matter and observations are confined for decision of this petition.

October 05, 2021
Rts

(Lisa Gill)
Judge

Whether speaking/reasoned : Yes/No

Whether reportable: Yes/No