

Balvinder @ Balinder and another

..... Petitioners

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Parminder Singh, Advocate, for the petitioner.

Mr. Manish Bansal, Deputy Advocate General, Haryana.

Rajesh Bhardwaj, J. (ORAL)

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

Present petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioners in FIR No.170 dated 29.8.2020 under Sections 376-D, 323, 452 IPC and Section 3(2)(v) SC/ST Act, 1989 registered at Police Station Kunjpura, District Karnal.

It has been contended by learned counsel for the petitioners that both the petitioners are falsely implicated in the present FIR. Petitioner No.1 belongs to SC category, petitioner No.2 belongs to BC category and the complainant-prosecutrix belongs to SC category and therefore, alongwith other Sections, Sections of Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 were also added. He further contends that the false implication of the petitioners is evident from the very fact that the prosecutrix has been examined by the trial Court and during her cross-examination, she has not supported the case of the prosecution thus, on request of learned Public Prosecutor, she was re-examined in the witness

box by the Public Prosecutor. He submits that in view of the same, the case of the prosecution would have no legs and therefore, incarceration of the petitioners is totally unwarranted.

On the other hand, learned counsel for the State opposes the prayer made by learned counsel for the petitioners. He contends that during examination-in-chief, the prosecutrix supported the case of the prosecution, whereas, very cleverly she has resiled from her stand when she entered into the witness box for cross-examination. However, he endorsed the custody of both the petitioners from 31.8.2020 and 5.9.2020, respectively. He further submits that out of total 22 prosecution witnesses, only one prosecution witness i.e. the prosecutrix has been examined so far.

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

In the totality of the facts and circumstances of the case, I find that learned counsel for the petitioners has made out a case for grant of regular bail. The trial would take time in its conclusion. Accordingly, the present petition is allowed and the petitioners are ordered to be released on bail 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.

(RAJESH BHARDWAJ)
JUDGE

23.7.2021
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Whether Speaking/Reasoned	:	Yes/No
Whether Reportable	:	Yes/No