

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-22085-2021

DATE OF DECISION: JUNE 11, 2021

IQBAL

...PETITIONER

VERSUS

STATE OF HARYANA

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ.

PRESENT: MR. SANDEEP KOTLA, ADVOCATE FOR THE PETITIONER.
KANWAR SANJIV KUMAR, AAG, HARYANA.

MANOJ BAJAJ, J.(ORAL)

Petitioner has filed this petition under Section 439 Cr.P.C. for grant of regular bail pending trial in case FIR No.118 dated 8.9.2020, under Section 376-D, 120-B IPC, Police Station Sohna, Gurugram. The petitioner is in custody since his arrest on 2.11.2020.

The allegations contained in the FIR as noticed by the Addl. Sessions Judge (Fast Track Court), Gurugram, in the order dated 13.5.2021, are as under:-

“In brief, the prosecution case is that on 8.9.2020, the prosecutrix presented written complaint with allegations that “she was residing in Okhla, New Delhi after marriage and her parental village was Sancholi situated in Tehsil Sohna, District Gurugram. About one month ago, after the eve of ID, her sister-in-law Nafeesa took her alongwith her from home on the pretext that she had some work in Village Dhoj. When they reached Ballabgarh, Nafeesa talk to some one on phone and after some time, there came a white colour Brezza Car. Nafeesa told her to sit in the car. When she went to sit

inside the car, she saw Ikbal and Sazid already sitting in the car who were from her Parental village. When she inquired from Nafeesa as to what kind of work with them, she told that she used to have conversation with them and that on that day, she had come because of her personal work with them. After that, Sazid and Ikbal drop the car towards Nunera Toll Tax and turn the car on the side way to the Toll Tax. There, they gave cold-drink to her in a glass after drinking which, she felt unconsciousness coming over her. In that condition, Sazid and Ikbal committed rape with her turn by turn. When she regained consciousness after sometime, she protested and told Nafeesa that they would go with parents to report the matter but Nafeesa put her in fear by stating that if they reported the incident, then Sazid and Ikbal would viral her video, which they had prepared, in order to defame her and their family, whereas, no harm would come to Sazid and Ikbal as they were already facing several court cases. Out of shame and in fear of her reputation, she had kept quite till now. A prayer was made to take suitable action against all the culprits.”

Learned counsel for the petitioner submits that out of total 18 prosecution witnesses, prosecution has examined 11 witnesses including the complainant (victim). He has invited the attention of the Court to the deposition of the prosecutrix (PW6) and submitted that she clearly deposed before the trial Court that her relation with the petitioner was with her consent. Learned counsel has argued that the trial is likely consume some time, therefore, further custody of the petitioner may not be necessary. He prays that the petitioner be released on regular bail during the pendency of the trial.

On the other hand, learned counsel for the State assisted by ASI Shakuntala has opposed the aforesaid prayer on the ground that specific allegations were levelled by the prosecutrix against the petitioner and his co-accused. According to him, still seven witnesses remain to be examined and therefore, the petitioner does not deserve the concession of regular bail.

After hearing the learned counsel for the petitioner and considering the above background, this Court is of the opinion that as material witnesses have been examined by the prosecution, therefore, further custody of the petitioner may not be necessary. The remaining witnesses are official witnesses and there does not seem to be any possibility of their being won-over. Apart from it, the belligerent re-emergence of pandemic COVID-19 in the region has once again forced the State governments of Punjab, Haryana and U.T. Administration, Chandigarh to impose various restrictions to clampdown the contagion, and it would further delay the conclusion of trial. Thus, the further detention of the petitioner behind the bars may not be necessary for any useful purpose, who is presently confined in judicial custody after his arrest on 2.11.2020.

Resultantly, without meaning any expression of opinion on the merits of the case, it is ordered that the petitioner be released on regular bail in the above case, subject to his furnishing requisite bail bonds/surety bonds to the satisfaction of the trial Court concerned.

The petition is allowed.

June 11, 2021
Gulati

(MANOJ BAJAJ)
JUDGE

Whether Reportable : Yes/No

Whether Speaking/Reasoned : Yes/No