

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

208

CRM- M-23228 of 2020(O&M)
Date of Decision: 19.02.2021

Chander Shekhar

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present:- Mr. Amit Chaudhary, Advocate, for the petitioner.
Mr. Neeraj Poswal, AAG, Haryana.

Amol Rattan Singh, J. (Oral)

Case heard by video conferencing.

On 19.08.2020, the following order had been passed:-

“All cases listed today have been taken up for hearing by way of video conferencing because of the situation existing due to the Covid-19 Pandemic.

By this petition, filed under the provisions of Section 439 of the Cr.P.C, the petitioner seeks the concession of ‘regular bail’, upon FIR no.23, dated 14.03.2019, having been registered at Police Station Women, District Fatehabad, alleging therein the commission of offences punishable under Sections 363, 366-A, 365, 328 of the IPC and Section 4 of the Protection of Children from Sexual Offences Act, 2012 and Section 3 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

Learned counsel for the petitioner submits that with the petitioner having been now in custody for 1½ years, with the trial still not having concluded due to the current pandemic, even though his earlier petition, i.e. CRM-M-43255 of 2019, was dismissed on 18.10.2019, i.e. 10 months ago, he deserves the concession of bail.

He further reiterates (as has been recorded in the aforesaid order dated 18.10.2019 passed in that petition), that both the prosecutrix, as also her father (complainant in the FIR), have

already testified, with them having been declared to be hostile, with this court having dismissed his earlier petition only on the ground that the victim was only 15 ½ years old, but with the petitioner being 27 years old, and with the FSL report stating that in the DNA examination the semen was found to be positively matching with the sample of the semen given by the petitioner.

Very obviously, on merits nothing has changed since then, but keeping in view the fact that the earlier petition of the petitioner was dismissed at the time when the petitioner had been in custody for about 7 months and now he has been in custody for about 1 year and 5 months, the petitioner is ordered to be admitted to interim bail on his furnishing adequate bail and surety bonds to the satisfaction of the trial court/Chief Juridical Magistrate/Duty Magistrate concerned, till the next date of hearing before this court at this stage.

The trial court is directed to send a report to this court as to the stage of the trial, as to how many witnesses have been examined and how many are still to be examined, and as to whether the trial would be likely to conclude in the near future in the situation of the current pandemic, or not.

Adjourned to 28.10.2020.”

Thereafter, on 09.02.2021, the following order had been passed:-

“Case heard via video conferencing.

At the outset, learned State counsel submits that as per his instructions the trial is at its final stage.

However there is a discrepancy between his instructions and those of counsel for the petitioner as regards the exact stage of the trial.

Adjourned to 19.02.2021.

Interim order to continue till that date though obviously if the petitioner, in the meanwhile, is convicted, the interim order would stand vacated.

The aforesaid observation has only been made by way of abundant caution qua the custody of the petitioner, with this court not making any comment whatsoever as to the merits of the case for or against him, which would wholly be gone into by the trial court as per the evidence led.”

Today learned State counsel reiterates that all prosecution witnesses have been examined and therefore the trial is actually at a final stage.

Learned counsel for the petitioner on other hand submits that an application under the provisions of Section 311 of the Cr.P.C. has been filed and consequently the trial is not likely to conclude in the near future.

Though learned State counsel seeks time to verify that fact, with him seeking further instructions in that regard, however looking at the fact that it is not denied even today that the prosecutrix and her father both turned hostile (as recorded in the order dated 19.08.2020), though learned State counsel submits (on instructions from ASI Rekha), that DNA samples of the swabs collected from the girl were found to be matching with the petitioner, I see no purpose in keeping this petition pending any further.

Consequently, without making any comment on the merits of the case, which obviously would be considered by the trial court wholly on the basis of evidence led before it, as regards the interim order passed in favour of the petitioner on 19.08.2020, admitting him to interim bail, it is made absolute on the same terms and conditions.

19.02.2021
vcgarg

(AMOL RATTAN SINGH)
JUDGE

Whether reasoned/speaking: Yes
Whether reportable: No