

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

212

**CRM-M-27322-2020
Date of decision: 19.02.2021**

Anuj

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Rao Ajender Singh, Advocate
for the petitioner.

Mr. Geeta Sharma, DAG, Haryana
for the respondent-State.

ARUN KUMAR TYAGI, J (ORAL)

The petitioner has filed the present (first) petition under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail in case FIR No.86 dated 09.03.2020 registered under Section 346 of the Indian Penal Code, 1860 (for short, "the IPC") at Police Station Sadar Narnaul, District Mahendergarh to which Sections 366, 376, 342 and 506 read with Section 34 of the IPC and Section 3 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 were added lateron.

Briefly stated, the above said FIR was registered under Section 346 of the IPC on statement of brother of the prosecutrix who alleged that on 08.03.2020 at about 12:30 P.M. the prosecutrix went out of the house to purchase her clothes but did not come back. The police investigated the case and during investigation, recovered the prosecutrix on 17.03.2020. In her statement the prosecutrix implicated the petitioner for commission of rape upon her. The petitioner was

arrested in the case. On completion of investigation, the police charge-sheeted the petitioner to face trial.

The petitioner being in custody has filed the present petition for regular bail.

The petition has been opposed by learned State Counsel in terms of reply filed by way of affidavit of Narender Kumar, HPS, Deputy Superintendent of Police, Narnaul, District Mahendergarh.

Vide order dated 12.01.2021 the petition was ordered to be taken up for hearing after recording of statement of the prosecutrix.

The trial Court has recorded statement of the prosecutrix and sent its report along with copy of the statement of the prosecutrix.

I have heard arguments addressed by learned Counsel for the petitioner and learned State Counsel and gone through the relevant record.

Learned Counsel for the petitioner has submitted that the petitioner has been falsely implicated in the case. The prosecutrix accompanied the petitioner out of her own free will. The prosecutrix was medically examined on 17.03.2020 and as per MLR there was no injury on her person. As per her own version, the prosecutrix established physical relations with the petitioner with her own free consent. The petitioner is in custody since 20.03.2020. The trial is likely to take long time due to restrictions imposed to prevent spread of Covid-19. No useful purpose will be served by further detention of the petitioner in custody. Therefore, the petitioner may be granted regular bail.

On the other hand, learned State Counsel has submitted

that in compliance with order dated 12.01.2021 statement of the prosecutrix was recorded by the trial Court. In her statement before the trial Court, the prosecutrix implicated the petitioner for commission of rape upon her. In view of the nature of accusation and gravity of the offences, the petitioner does not deserve grant of regular bail. Therefore, the petition may be dismissed.

In view of the facts and circumstances of the case, nature of accusation against the petitioner, quantum of sentence which conviction may entail, statement of the prosecutrix implicating the petitioner for committing rape on her and the fact that the trial can be expedited on easing out of the restrictions imposed to prevent spread of COVID-19, but without minutely considering and commenting on the merits of the case, I am of the considered view that the petitioner does not deserve grant of regular bail.

Accordingly, the petition for grant of regular bail to the petitioner is hereby dismissed.

However, in view of the facts and circumstances of the case and observations made by Hon'ble Supreme Court in ***Doongar Singh Vs. State of Rajasthan 2018 (1) RCR Criminal 256, State of U.P. Vs. Shambhu Nath Singh and others, 2001 (2) R.C.R. (Criminal) 390, Hussain and another Vs. Union of India 2017(2) RCR Criminal 312 and Thana Singh Vs. Central Bureau of Narcotics 2013(1) R.C.R(Criminal) 861***, the trial Court is directed to expedite the trial and conclude prosecution evidence expeditiously by conducting trial on day to day basis as far as possible and by allocating block of dates for the trial as directed by Hon'ble Supreme Court and by issuing

coercive process for securing presence of the witnesses, if so required.

In case of non-appearance of any of the other prosecution witnesses, the trial Court shall take appropriate action against the concerned prosecution witness absents without any lawful excuse by filing complaint under Section 174 of the Indian Penal Code, 1860 or taking proceedings under Section 350 of the Cr.P.C. against him.

A copy of this order be sent to the trial Court concerned for requisite compliance.

19.02.2021

Vinay

(ARUN KUMAR TYAGI)
JUDGE

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