

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

209

**CRM-M-29329-2020
Decided on : 05.04.2021**

Bhim

. . . Petitioner(s)

Versus

State of Haryana

. . . Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

(Through Video Conferencing)

PRESENT: Ms. Malika Sethi Sobti, Advocate
for the petitioner(s).

Ms. Tanushree Gupta, DAG, Haryana
assisted by ASI Ramjiwan.

MANJARI NEHRU KAUL, J. (Oral)

This is the 2nd petition filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case FIR No. 75, dated 16.03.2017, under Section 346 IPC (later on added Sections 365, 376, 302, 201, 120-B IPC & Section 4 of the POCSO Act, 2012), registered at Police Station Chandhut, District Palwal.

Learned counsel for the petitioner *inter alia* contends that a false case has been planted upon the petitioner, as initially an FIR under Section 346 IPC was lodged, however, later on Sections 365, 376, 302, 201, 120-B IPC & Section 4 of the POCSO Act, 2012, were added, even though the mischief to attract the ingredients of Section 376 IPC, are clearly amiss. She further contends that the petitioner was neither named in the FIR in question nor any specific allegation levelled against him. It was only 03 days after the daughter (deceased) of the complainant went missing, the complainant for the first time raised suspicion *qua* the alleged involvement

of the petitioner in the crime in question by stating that the petitioner used to talk to the deceased (daughter of the complainant) over phone. Learned counsel has further contended that since it is a case resting on circumstantial evidence, no motive is forthcoming as to why the petitioner would have committed the alleged crime in the absence of any allegations of enmity between the parties. Further, while inviting the attention of this Court to the postmortem report dated 18.03.2017 (Annexure P-3), it has been submitted that it is at complete variance with the version of the prosecution that the deceased had been subjected to rape by the petitioner.

Per contra, learned State counsel while opposing the prayer and submissions of the learned counsel for the petitioner, has submitted that undoubtedly the name of the petitioner cropped up in the supplementary statement of the complainant, after 03 days of the deceased having gone missing (i.e. daughter of the complainant) however, the call details between the deceased and the petitioner on the fateful day, which were collected by the investigating agency, revealed that they had been in constant touch with each other, which corroborated the supplementary statement given by the complainant. Learned State counsel on instructions from ASI Ramjiwan has further submitted that the trial is now nearing completion, as 14 out of the 18 prosecution witnesses cited have been examined.

Heard.

Prima facie, there are serious allegations against the petitioner for which he does not deserve the concession of regular bail coupled with the fact that prosecution evidence is nearing conclusion. Petition stands dismissed. However, anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case. Since the petitioner

has been in custody since 22nd March, 2017, the trial Court is directed to expedite the trial and endeavour to conclude the same within four months from today.

(MANJARI NEHRU KAUL)
JUDGE

April 05, 2021

J.Ram

Whether speaking/reasoned: *Yes/No*
Whether Reportable: *Yes/No*