

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Criminal Misc.-M No.29454 of 2020 (O&M)

Date of Decision: January 15, 2021

Altaf

...Petitioner

Versus

The State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. B.S.Saroha, Advocate,
for the petitioner.

Mr. Sukhdeep S. Parmar, DAG, Haryana.

MANOJ BAJAJ, J. (Oral)

CRM-602-2021

Application allowed. Order dated 18.12.2020 (Annexure P-6) is
taken on record.

CRM-M-29454 of 2020

Petitioner has filed this petition under Section 439 Cr.P.C. for
grant of regular bail, pending trial in case FIR No.92 dated 05.12.2019,
under Sections 363, 376-D, 506 IPC, and Section 6 Protection of Children
from Sexual Offences Act, 2012, registered at Police Station, Women,
District Palwal. The petitioner is in custody since his arrest on 11.12.2019.

The above FIR was registered on the complaint of Parmina wife
of Shejad, wherein it was alleged that on 04.12.2019, when she and her
husband were not at house, then at about 11.00 p.m., her daughter
Shamshed, aged about seventeen years, had gone out for urinal. In the
meantime, four young boys, namely, Altaf, Sarfraj, Irshad and Shoib

kidnapped her daughter forcibly and took her in the field, where they committed rape upon her. After two hours, her daughter came back and narrated the whole occurrence to her. The accused had also committed rape with her daughter on 13.08.2019.

Learned counsel for the petitioner contends that previously also, a case bearing FIR No.181 dated 16.08.2019 was registered against the petitioner and other accused, namely, Sarfaj, Irshad and Shoib for the offences punishable under Sections 376-D, 365, 323, 506 IPC and Section 6 POCSO Act, 2012, Police Station, Bahin. He has invited the attention of the Court to the order dated 18.12.2020, whereby a cancellation report submitted by the police in FIR No.181 dated 16.08.2019 has been accepted after hearing the complainant. He submits that on similar allegations, the present FIR No.92 dated 05.12.2019 has been registered in order to falsely implicate the petitioner and other accused persons as there was a business dispute between the husband of the complainant and the petitioner. Learned counsel has further invited the attention of the Court to the affidavits given by the complainant and her daughter, wherein they have retracted from the allegations made in the FIR. He submits that the investigation in the case is complete and prays for bail.

On the other hand, learned State counsel, assisted by ASI Rachna, does not dispute this fact that previously also similar allegations were not substantiated and a cancellation report was submitted, which has been accepted by the Court vide order dated 18.12.2020. He states that though the investigation in the FIR No.92 dated 05.12.2019 is complete and final report was filed on 06.02.2020, but the charges are yet to be framed.

After hearing the learned counsel for the parties and considering the background of the case, this Court finds that after completion of investigation, the trial has not even commenced and, therefore, considering the custodial period of the petitioner, his further detention behind the bars may not be necessary. This Court is cognizant of the fact that the outbreak of pandemic COVID-19 in the region may delay the conclusion of trial.

Resultantly, without meaning any expression of opinion on the merits of the case, the petition is allowed and it is ordered that the petitioner be released on regular bail subject to his furnishing requisite bail bonds/surety bonds to the satisfaction of the trial Court/Duty Magistrate, Palwal.

January 15, 2021
ramesh

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned
Whether Reportable:

Yes/No
Yes/No