

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

(Heard through VC)

CRM Nos.13083 & 18204 of 2021 in/and
CRM-M-31139 of 2020 (O&M)
Date of Decision: July 14, 2021

Mosim

...Petitioner

Versus

State of Haryana

...Respondent

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Rahul Bhargava, Advocate
for the petitioner.

Ms. Deepshikha Chauhan, AAG Haryana.

JAISHREE THAKUR, J. (Oral)

CRM-18204-2021

This is an application that has been filed seeking to prepone hearing in the main case, which is now listed for 19.08.2021.

For the reasons mentioned in the application, the same is allowed. Hearing in the main case is preponed and the same is taken up for hearing today.

CRM-13083-2021

Allowed as prayed for.

Amended petition along with Annexures P-4 to P-6 are taken on record.

CRM-M-31139-2020

The instant petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case FIR No.114 dated 26.04.2020, which was initially registered under Sections 376-D, 506 of Indian Penal Code and Section 6 of POCSO Act at Police Station Pinangwa, District Nuh, which has now been converted to Section 354-A of IPC and Section 8 of POCSO Act.

Learned counsel for the petitioner submits that the petitioner herein was taken into custody in the aforesaid FIR on 17.06.2020. It is contended that in fact, the father of the petitioner herein suffered head injuries at the instance of complainant Jafruddin and consequent to which he was admitted in Safdarjung Hospital. On released from the said hospital, he came to know that a false case has been registered alleging gang rape by the petitioner on the daughter of the complainant, which matter has been investigated and Section 376-D IPC stands deleted. It is argued that matter already stands investigated and challan presented, while contending that Section 8 of POCSO Act has wrongly been invoked as the daughter of the complainant is a major.

Per contra, learned counsel appearing on behalf of respondent-State, on instructions from SI Nikhil, opposes the grant of regular bail to the petitioner, while contending that there are serious allegations that have been levelled against the petitioner. However, she does not dispute the fact that allegations under Section 376-D of IPC have been deleted and now challan stands presented under Sections 354-A of IPC and Section 8 of POCSO Act.

I have heard learned counsel for the parties.

In view of the facts that the petitioner herein has been in custody since 17.06.2020 and investigation is complete, as the challan stands presented, as such, his custody is no longer required. Therefore, no useful purpose would be served in keeping the petitioner behind bars. At this stage, without commenting on the merits of the case, the instant petition is allowed and the petitioner is directed to be released on regular bail on execution of adequate personal bond and surety bond to the satisfaction of concerned trial Court/Duty Magistrate. It is made clear that the petitioner will not try to contact the prosecutrix or his family members in any manner whatsoever either directly or indirectly.

However, anything observed or said by this court is only for the purpose of deciding the instant petition for grant of regular bail and the same shall have no affect on the merits of the case.

July 14, 2021
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(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No