

232

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M No.31412 of 2020 (O&M)

Decided on: 09.02.2021

Kamal @ Kamlu

....Petitioner

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. Yashveer Kharb, Advocate
for the petitioner.

Mr. Deepak Kumar Grewal, DAG, Haryana.

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in this petition is for grant of regular bail to the petitioner under Section 439 of the Code of Criminal Procedure (in short 'Cr.P.C.') in FIR No.173 dated 29.04.2020, for offence punishable under Sections 346 of the Indian Penal Code, 1860 (in short 'IPC') (challan presented under Sections 342, 366, 376-D, 506 IPC and Section 346 IPC stands deleted) registered at Police Station Kurukshetra University, District Kurukshetra.

Counsel for the petitioner has argued that the FIR was registered on the statement of one Dinesh Sharma with the allegations that he is having 02 sisters and his younger sister i.e. the victim 'S' (name not disclosed) used to do household work and had left the home without informing anybody. After registration of the FIR, the prosecutrix was recovered and her statement under Section 164 Cr.P.C. was recorded in which she stated that one of her relative namely Sanju informed that her maternal aunt is not well and she have to go to

CASE HEARD THROUGH VIDEO CONFERENCING

Kurukshetra. Thereafter, he took her to Safido where the brother of Sanju and 02 other persons were already present and they committed wrong acts with her. Later on, she was dropped and was threatened not to disclose anything.

Counsel for the petitioner has further submitted that the petitioner was later on arrested on the basis of the disclosure statement of the main accused Sanju, who has stated that the petitioner has taken the victim from Kurukshetra to Safido.

Counsel for the petitioner has also placed on record the deposition of PW1 i.e. the victim, who has resiled from her statement made before the police as well as the statement recorded under Section 164 Cr.P.C.. This witness was declared hostile and in the cross-examination by the Public Prosecutor, she even denied having made the aforesaid statement which was exhibited as P-1. She further stated that her subsequent statement Ex.P4 was not given by her and her signatures were obtained on blank papers. With regard to the statement recorded under Section 164 Cr.P.C. (Ex.P-5), she stated that she made the said statement under the pressure of the police officials and the villagers, who were standing in the Court.

Counsel for the petitioner has also relied upon the statement of the complainant PW-2, who was also declared hostile and did not support the prosecution version. It is further submitted that the petitioner is in long custody and there is no possibility of tampering with the prosecution evidence as both the witnesses i.e. the complainant as well as the victim, have not supported the prosecution version.

Counsel for the State has not disputed the factual position but

CASE HEARD THROUGH VIDEO CONFERENCING

opposed the prayer for bail.

Without commenting anything on merits of the case and after going through the statements of PW1 and PW2 and also in view of the fact that the custodial interrogation of the petitioner is not required and the conclusion of the trial will take some time due to COVID-19 situation, this petition is allowed and the petitioner is directed to be released on bail subject to his furnishing bail/surety bonds to the satisfaction of the trial Court/Illaq Magistrate/Duty Magistrate.

However, it will be open for the prosecution to apply for cancellation of bail of the petitioner, in case he is found involved in any other case or misusing the concession of bail, in any manner.

(ARVIND SINGH SANGWAN)
JUDGE

09.02.2021

yakub

Whether speaking/reasoned

Yes/No

Whether reportable:

Yes/No