

**214 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****CRM-M-31522-2020 (O&M)****Date of decision-11.02.2021****Rohit Rathee****....Petitioner****Vs.****State of Haryana****...Respondent****CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ**

Present: Ms. Sharmila Sharma, Advocate for the petitioner.

Mr. Kanwar Sanjiv Kumar, AAG, Haryana.

MANOJ BAJAJ, J.

Petitioner has filed this petition under Section 439 Cr.P.C for grant of regular bail pending trial in case FIR No.187 dated 03.06.2019 registered under Sections 363, 366-A, 376-D, 506 and 34 Indian Penal Code, 1860, Section 6 of The Protection of Children from Sexual Offences (POCSO) Act, 2012 and Section 3(2) The Scheduled Castes and Tribes (Prevention of Atrocities) Act, 1989 at Police Station Kundi, Sonipat. The petitioner is in custody since his arrest on 18.06.2019.

The FIR was registered on the basis of complaint moved by Shyam and the allegations as noticed by the learned Sessions Judge, Sonapat in the order dated 18.08.2020 are as under:-

“The brief facts of the prosecution case are that a complaint was lodged by Shyam that his daughter/prosecutrix eloped from the house with some boy along with cash and jewellery for performing marriage. On this complaint investigation was carried out. During investigation 15.06.2019, prosecutrix was recovered and she disclosed that she was abducted by present applicant along with co-accused and thereafter, they committed rape upon her turn by turn after making her unconscious after forcing her to consume soft drink laced with some sedatives. After gaining consciousness,

prosecutrix fled away from the clutches of the present applicant and co-accused and thereafter, she visited Haridwar on train and there she called co-accused Chetan on 11.06.2019 who reached on 12.06.2019. Thereafter, she along with Chetan visited Jammu and on 24.06.2019, they came back to Sonapat. During investigation, applicant/accused Rohit was arrested. He suffered disclosures statement. In pursuance to his disclosure statement, applicant/accused Rohit got the place of occurrence demarcated where he committed rape upon prosecutrix on 29.05.2019. He also got recovered the motorcycle bearing registration No.HR-79A-3165 HF Deluxe which was used by him in committing the crime. Applicant/accused also got the place demarcated where he dropped the prosecutrix after committing rape upon her. After completion of investigation, challan was filed against him.”

Learned counsel for the petitioner has argued that the prosecution case is full of discrepancies as the petitioner has been made an accused in respect of an occurrence allegedly committed by him on 29.05.2019 with the prosecutrix at M.R. Hotel. She has invited the attention of the Court to the statement of the prosecutrix recorded under Section 164 Cr.P.C on 15.06.2019 (Annexure P-2), wherein she narrated that the occurrence took place on 31.05.2019 and in all six accused persons were named. She has further drawn attention of the Court to the final report submitted by the Police under Section 173(2) Cr.P.C and contended that accused persons, namely, Munish, Jitender, Aman and Neeraj, who were named in the statement recorded under Section 164 Cr.P.C were found innocent. She prays that the petitioner be released on bail during the pendency of the trial.

On the contrary, learned State counsel assisted by SI Shamsheer has opposed the prayer on the ground that the offence is serious and the petitioner has been specifically named by the prosecutrix. He has contended that she was previously known to the petitioner and according to him, the

record of the hotel has been collected, which shows that the petitioner booked Room No.6 in the said hotel and committed the crime there on 29.05.2019. It is further pointed out that the victim was recovered when she was with co-accused Chetan.

At this stage, learned counsel for the petitioner submits that co-accused Chetan has already been released on bail, therefore, the petitioner also deserves the concession.

After hearing the learned counsel for the parties, this Court finds that the petitioner was arrested on 18.06.2019 and the trial is yet to commence as after framing of charges, no prosecution witness has been examined. Admittedly, the petitioner is presently confined in judicial custody and the co-accused of the petitioner, who is similarly situated has been released on bail, therefore, the further custody of the petitioner may not serve any useful purpose.

Resultantly, without meaning any expression of opinion on the merits of the case, 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 concerned.

The petition is allowed.

11.02.2021

vanita

Whether speaking/reasoned :
Whether Reportable :

Yes
Yes

No
No

(MANOJ BAJAJ)
JUDGE