

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

218

**CRM-M-32220-2020
Date of decision: 10.02.2021**

Deepak Kumar

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Manpreet Singh Dua, Advocate
for the petitioner.

Mr. P.S. Walia, Asstt. A.G., Punjab
for the respondent-State.

ARUN KUMAR TYAGI, J. (ORAL)

(The case has been taken up for hearing through video conferencing.)

The petitioner has filed the present (first) petition under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail in case FIR No.50 dated 25.05.2017 registered under Sections 363, 366-A and 376 of the Indian Penal Code, 1860 and Sections 3 and 4 of the Protection of Children from Sexual Offences Act, 2012 at Police Station City-II, Abohar District Fazilka.

The petitioner being in custody since 12.02.2020 has filed the present petition for grant of regular bail.

The petition has been opposed by the respondent-State in terms of reply filed by way of affidavit of Rahul Bhardwaj, PPS, Deputy Superintendent of Police, Sub-Division Abohar, District Fazilka in the Registry of this Court which is taken on record.

Custody certificate has been filed by the learned State

Counsel through e-mail print out of which is taken on record.

I have heard arguments addressed by learned Counsel for the petitioner and learned State Counsel and gone through the relevant record.

Learned Counsel for the petitioner has submitted that the petitioner has been falsely implicated in the present case. As per the version given in the FIR lodged by the prosecutrix co-accused Shiva is alleged to have come outside her house on scooty with the petitioner and to have enticed her to accompany him on the pretext of performing marriage with her by him and co-accused Shiva is alleged to have forcibly raped her with the help of Mani and the petitioner. On investigation, Mani was found to be innocent. There is no allegations regarding enticing of the prosecutrix and her rape by the petitioner who is alleged to have merely accompanied co-accused Shiva on scooty when the prosecutrix was taken by co-accused Shiva with him. There are no specific allegations as to specific role of the petitioner. The trial is likely to take long time due to restrictions imposed to prevent spread of Covid-19. No useful purpose will be served by further detention of the petitioner in custody. Therefore, the petitioner may be granted regular bail.

On the other hand, learned State Counsel has submitted that the petitioner along with his co-accused Shiva kidnapped the prosecutrix and co-accused Shiva committed rape upon the prosecutrix with his help. Co-accused Shiva is still absconding and could not be arrested. In view of the nature of accusation and gravity of the offences, the petitioner does not deserve grant of regular bail. Therefore, the

petition may be dismissed.

In view of the facts and circumstances of the case, nature of accusation and evidence against the petitioner, role attributed to him, the period of his custody and the fact that the trial is likely to take long time due to restrictions imposed to prevent the spread of Covid-19, but without commenting on the merits of the case, I am inclined to extend the concession of regular bail to the petitioner.

Accordingly, the petition is allowed and the petitioner is ordered to be released on regular bail on furnishing of personal and surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

10.02.2021

Vinay

(ARUN KUMAR TYAGI)
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No