

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Sr. No.211

CRM-M-34299-2020 (O&M)

Date of decision: 09.02.2021

Ashok

....Petitioner

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. Mohit Nehra, Advocate
for the petitioner.

Mr. Kirpal Singh Thakur, AAG, Haryana.

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DEEPAK SIBAL, J. (Oral)

Case taken up through video conferencing.

The present petition has been filed under Section 439 Cr.P.C. for the grant of regular bail in FIR No.306 dated 03.08.2019 registered under Sections 5 and 6 of the POCSO Act, 2012 and Sections 328, 376-D, 342, 506 IPC at Police Station Badshapur, District Gurugram.

The petitioner is being prosecuted for having allegedly raped the prosecutrix – a minor girl.

Learned counsel for the petitioner submits that the petitioner has been falsely implicated; he has been in custody since 09.09.2019; the prosecutrix while appearing before the Trial Court as witness No.2 has not towed the line of the prosecution qua the allegations of rape against the petitioner; rather, if the prosecutrix's statement before the Trial Court is read, the same shows that it is he who had helped the prosecutrix; the petitioner is not involved in any other criminal case; the prosecutrix has been examined before the Trial Court and therefore, the petitioner is not in a position to influence the trial; there is no medical evidence to support the prosecutrix's case qua rape by the petitioner and that after the prosecutrix has stated before the Trial Court in favour of the petitioner, no useful purpose would be served by keeping him in custody.

Learned State counsel opposes the grant of bail to the petitioner on the ground that he has raped a minor girl.

While appearing before the Trial Court as witness No.2, the prosecutrix as exonerated the petitioner qua the charge of raping her and the effect of such statement would be debated during the course of the petitioner's trial. However, the petitioner has already been in custody for the last 01 year and 05 months; there is no other criminal case pending against him; the prosecutrix has already been examined before the Trial Court and therefore, the petitioner is not in a position to influence the trial and since the trial is likely to take a long time to conclude no useful purpose would be served by further incarceration of the petitioner.

Keeping in view the totality of the above facts, the present case is considered to be a fit one in which the petitioner be directed to be released on regular bail. Resultantly, subject to the satisfaction of the CJM/Duty Magistrate, Gurugram, the petitioner is directed to be released on bail.

It is clarified that the above observations have been made only for the limited purpose of deciding the present regular bail application and the same would not be construed to be an expression of opinion on the merits of the case.

(DEEPAK SIBAL)
JUDGE

February 09, 2021
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Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No