

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

CRM-M-35023-2020 (O&M)

Date of Decision: 24.08.2021

(Heard through VC)

Vicky

... Petitioner

Versus

State of Haryana and another

... Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Ravi Malik, Advocate
for the petitioner.

Ms. Deepshikha Chauhan, AAG, Haryana.

None for respondent No.2.

JAISHREE THAKUR, J. (Oral)

The instant petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case FIR No. 105 dated 29.08.2019 under Sections 323, 376(2)(n), 506 of Indian Penal Code registered at Women Police Station Jind, District Jind.

Learned counsel for the petitioner contends that the petitioner herein was arrested in this case on 01.10.2019 and is in custody since then. It is submitted that the petitioner has been falsely implicated in the present case as would be evident from the reply that has been furnished by way of affidavit of Ms. Pushpa, DSP Headquarters, Jind, District Jind. It is argued

that as per the reply furnished, the medico legal examination was conducted at Govt. Hospital, Jind vide MLR No. GR-68-2019 dated 30.08.2019 which would reflect that no fresh injuries had been seen on the body of the prosecutrix/victim. It is further argued that the final FSL report would reflect that human semen was detected on Exhibit 1 i.e. underwear, but was not reflected on any of rest of the exhibits, while further contending that the human semen detected did not match with the DNA profile of the petitioner herein. It is further stated that out of total 15 witnesses, none has been examined as yet and that the prosecutrix is not coming forth while stating that the petitioner undertakes that after being released on bail, he will never try to contact/influence the prosecutrix or any other witness and that the conclusion of trial will take sufficient time.

Per contra, learned counsel appearing on behalf of respondent-State, on instructions from ASI Neelam, opposes the grant of regular bail to the petitioner, while submitting that offences alleged against the petitioner are serious in nature, however, she does not dispute the fact that the DNA profile of the petitioner has not matched with that of the material collected during medical examination of the prosecution.

None has appeared on behalf of the complainant prosecutrix despite service.

I have heard learned counsel for the parties.

The trial is likely to take some time as none has been examined as yet. The petitioner herein has been in custody since 01.10.2019. The FSL report has been obtained but the DNA profile has not matched. The prosecutrix despite being summoned is not coming forth to depose before

the trial Court. In such circumstances, no useful purpose would be served in keeping the petitioner behind bars any longer. 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, with a condition that he will neither contact any of the witnesses, including the prosecutrix in any manner, nor would he try to enter the vicinity of the prosecutrix, on his execution of personal bond of Rupees One Lakh with one surety in the like amount to the satisfaction of concerned trial Court/Duty Magistrate.

However, any observation made herein shall not be construed to be an expression on merits of the case.

It is made clear that in case the petitioner violates the above mentioned conditions, in such an eventuality the regular bail allowed to the petitioner is liable to be cancelled.

24.08.2021
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(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No