

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.**

CRM-M No.35817 of 2020

Date of Decision: 26.02.2021

Yamin @ Minha

...Petitioner

Versus

State of Haryana

....Respondent

CORAM :- HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present:- Mr. Ashish Sanghi, Advocate
for the petitioner.

Mr. Rajiv Goel, D.A.G., Haryana
with ASI Anita.

Manjari Nehru Kaul, J. (Oral)

The present petition has been filed under Section 439 Cr.P.C for grant of regular bail to the petitioner, in case FIR No.148 dated 17.12.2019 registered under Sections 450, 506 of IPC, 1860 and Section 4 of POCSO Act, 2012 (during investigation, the Section 450 IPC, 1860 and Section 4 of POCSO Act, 2012 were deleted and subsequently, Section 452 IPC, 1860 and Section 8 of POCSO Act, 2012 were added) at Police Station Women Jind, District Jind, Haryana, during pendency of the trial.

Learned counsel for the petitioner contends that a fabricated and unbelievable version has been brought forth which is evident from the fact that as per the complainant, the entire family was sleeping in the same room when the petitioner entered and dragged the victim to the bathroom where she was subjected to sexual assault. He submits that it does not appeal to prudence that in the eventuality of the victim being dragged to the

bathroom, the other occupants including the complainant would not have come to know and woken up. It has further been submitted that the statement of the complainant is at complete variance with that of the victim in as much as the complainant alleged in the FIR that her daughter was raped whereas the victim in her statement recorded under Section 164 Cr.P.C has stated that an attempt was made to rape her. While inviting the attention of this Court to Annexure P-2, which is the Medico Legal Report (MLR) of the victim, learned counsel has submitted that a perusal of the Medico Legal Report clearly demolishes the allegations of rape much less any sexual assault as no injury (internal or external) was seen on the person of the victim and the doctor had found her hymen to be intact. It has been submitted that the petitioner has been in custody since 21.12.2019 and only charges have been framed till now, hence, there is no likelihood of the trial concluding anytime in the near future.

Learned State counsel has not been unable to controvert the factual aspect of the submissions made by the learned counsel for the petitioner qua the contradictory statements made by the victim and the complainant as well as the opinion of the doctor in the MLR annexed as P-2. Learned State counsel however submits that the petitioner may not be extended the concession of regular bail as there are serious allegations levelled against the petitioner.

Heard.

Keeping in view the fact that the petitioner has been in custody since 21.12.2019 and due to the outbreak of the pandemic Covid-19, the trial is unlikely to conclude in the near future, I deem it a fit case to grant the concession of regular bail to the petitioner. Therefore, without

expressing anything on the merits of the case, the instant petition is allowed and the petitioner is ordered to be released on regular bail to the satisfaction of the trial Court/Duty Magistrate concerned.

(MANJARI NEHRU KAUL)
JUDGE

February 26, 2021

gurpreet

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No