

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Criminal Misc.-M No.39068 of 2020

Date of Decision: January 15, 2021

Dilshant Khan @ Dilshaad Khan

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Ajay Kamboj, Advocate,
for the petitioner.

Mr. Sukhdeep S. Parmar, DAG, Haryana.

Mr. Gurdarshan Sidhu, Advocate,
for the complainant.

MANOJ BAJAJ, J. (Oral)

Petitioner has filed this petition under Section 439 Cr.P.C. for grant of regular bail, pending trial in case FIR No.221 dated 15.08.2019, under Sections 363, 366-A IPC, 1860, Sections 376(2)(n), 451, 506 IPC and Section 6 POCSO Act, 2012 (added later on), registered at Police Station, Dabwali Sadar District Sirsa. The petitioner is in custody since his arrest on 30.08.2019.

The allegations contained in the FIR as noticed by the learned Additional Sessions Judge, Sirsa in his order dated 05.11.2020 are as under:-

“Briefly stated the victim was 17 years old girl child on the day of occurrence. It is alleged that she had gone missing from her house in the night of 13.08.2019. The complainant suspected involvement of the accused in disappearance of victim and

therefore, the instant case was registered. During the course of investigation, the victim got recovered and revealed the involvement of petitioner-accused in the present case in her statement before the learned Magistrate, wherein she specifically alleged that the petitioner had been persistently harassing and molesting her being her neighbourer. He trespassed in her house while seeing her alone and thereafter made physical relations with her. The petitioner further threatened to kill her parents. Therefore, she kept mum. The petitioner further molested her on 14.08.2019 and thereafter he took her at Ajmer on the point of threat to kill her parents. The petitioner-accused kept her in a Hotel at Ajmer and forcibly raped her there. When her parents reached in that Hotel, then accused fled away from there after seeing them.”

Learned counsel for the petitioner contends that the material witness (prosecutrix) stands examined, who has not supported the prosecution case and was declared hostile. He has invited the attention of the said statement of the prosecutrix appended with the petition as Annexure P-2. According to him, the petitioner is in custody since his arrest on 30.08.2019, but the trial is likely to consume considerable time to conclude. He prays for bail.

On the other hand, the prayer is opposed by the learned State counsel, assisted by ASI Shailender. However, it is not disputed that the prosecutrix has been declared as hostile witness. He, on instructions, states that still fifteen prosecution witnesses remain to be examined before the trial court.

After hearing the learned counsel for the parties and considering the above background of the case, this Court finds that the material witness has been examined and most of the remaining witnesses are the official witnesses and, therefore, there is no possibility of their being

won over. This Court is cognizant of the fact that the outbreak of pandemic COVID-19 in the region may delay the conclusion of trial, therefore, the further detention of the petitioner may not serve any useful purpose, who is presently confined in judicial custody.

Resultantly, without meaning any expression of opinion on the merits of the case, the petition is allowed and 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/Duty Magistrate, Sirsa.

January 15, 2021
ramesh

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned
Whether Reportable:

Yes/No
Yes/No