

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

Criminal Misc. No.M-41804 of 2020

Date of Decision: 05.02.2021

Sanjeet @ Sanjeet Bhamla

...Petitioner(s)

Versus

State of Haryana

...Respondent(s)

CORAM:- HON'BLE MR. JUSTICE HARI PAL VERMA

Present:- Mr. Dharamvir Sharma, Advocate
for the petitioner.

Ms. Gaganpreet Kaur, AAG, Haryana.

Mr. Sunil Kumar Jha, Advocate
for the complainant.

HARI PAL VERMA, J. (Oral)

Prayer in the present petition filed under Section 439 of the Code of Criminal Procedure, 1973 is for grant of regular bail to the petitioner in case FIR No.80 dated 23.05.2019 under Sections 376(D) IPC and 4/6 of POCSO Act, 2012 registered at Police Station Sadar Sohana District Gurugram.

The aforesaid FIR was registered on the allegations that in the year, 2016, the petitioner enticed the victim and had established physical relations with her. At that time, the prosecutrix was 16-17 years of age. The accused threatened the prosecutrix to viral her objectionable photographs, if she disclosed this fact to anyone. In July, 2016, the petitioner threatened

and forced the victim to establish relations with another co-accused whose name was also Sanjeet. Both the accused (petitioner and Sanjeet) established physical relations with the prosecutrix till December, 2016. In December, 2017 another boy Sandeep Bainsla also joined the accused and committed wrong with the prosecutrix. In January, 2018, 4th accused namely Surender Kumar @ Chali also joined the petitioner and he also threatened and blackmailed the victim, claiming himself to be boss of all the other 3 accused. During this period, the mother of the victim became somewhat suspicious about the prosecutrix and fixed her marriage. Accordingly, prosecutrix was sent to the house of her uncle (*Tau*) in June, 2018. In July, the victim came to know that she is pregnant and when this fact was disclosed to the co-accused Surender Kumar alias Chali, he gave her abortion pills, which resulted miscarriage of her foetus. For having guilt in her mind, she left the house of her *Tau* in December, 2018 and went to Amritsar and started staying in a Gurudwara where some *sevadars* helped her, counseled her and persuaded her to marry and to start a new life. Ultimately, she got married, but as the prosecutrix could not forget the traumatic experience she had at the hands of the accused persons, who made her life hell, she decided to report the matter to the police. Hence, the FIR.

Learned counsel for the petitioner has argued that prosecutrix became pregnant from co-accused namely Surender alias Chali, who has already been admitted on bail by this Court vide order dated 28.10.2020, passed in CRM-M-29883-2020 titled as Surender Kumar @ Challi Vs. State of Haryana. He further submits that another co-accused namely

Sandeep Bainsla has also been admitted on bail by learned Additional Sessions judge, Fast Track Special Court (for offences under the POCSOI Act, 2012), Gurugram vide order dated 05.11.2020, attached as Annexure P-5 with this petition. Challan in the case was presented on 23.05.2019 and charges were framed on 01.10.2019. The involvement of the petitioner-accused in the incident would be established only during trial after examining prosecution witnesses, which will take sufficient long time. The petitioner is in custody since 21.09.2019.

Learned State counsel as well as learned counsel appearing for the complainant have opposed the present bail application on the ground that it is the act and conduct of the petitioner which led to victimization of the prosecutrix. The petitioner had put pressure upon the prosecutrix to establish physical relations with another accused and she was subjected to sexual assault repeatedly by all the accused including the petitioner. Learned counsel for the complainant further submits that the prosecutrix has remained consistent with her statement recorded under Section 164 Cr.P.C. and therefore, petitioner is disentitled for regular bail.

I have heard learned counsel for the parties.

Admittedly, co-accused Surender Kumar @ Challi was admitted on regular bail by this Court vide order dated 28.10.2020, whereas another co-accused namely Sandeep Bainsla was admitted on regular bail by learned Additional Sessions judge, Fast Track Special Court (for offences under the POCSOI Act, 2012), Gurugram vide order dated 05.11.2020. The prosecutrix along with Deepak had also approached this Court by way of CRM-M-784-2019 *Nishi Sharma and another Versus*

State of Punjab and others, so as to seek protection from this Court for having solemnization of her marriage with Deepak against the wishes of her parents, but at that time, she never disclosed about the occurrence, which is the subject matter of the present FIR.

Be that as it may, considering the fact that the petitioner is custody since 21.09.2019 and the other co-accused of the petitioner have already been admitted on regular bail, coupled with the fact that trial is not likely to be concluded in near future, this Court deems it appropriate to admit the petitioner on bail.

Accordingly, the present petition is allowed and the petitioner is admitted on regular bail, subject to furnishing of his bail bonds/surety bonds to the satisfaction of trial Court.

However, it is made clear that observations made hereinabove shall not construe expression of any opinion on the merits of the case. Needless to say that the petitioner shall not try to contact the prosecutrix directly or indirectly or influence the witnesses in any manner.

February 05, 2021
AK

(HARI PAL VERMA)
JUDGE

Whether speaking / reasoned?

Yes / No

Whether reportable?

Yes / No