

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-42700-2020 (O&M)

DATE OF DECISION: APRIL 20, 2021

ANIL KUMAR @ SHANKY

...PETITIONER

VERSUS

STATE OF HARYANA

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ.

PRESENT: MR. GAUTAM DEWAN, ADVOCATE FOR THE PETITIONER.
MR. SUKHDEP PARMAR, DAG, HARYANA.

MANOJ BAJAJ, J.(ORAL)

CRM-11177-2021

This application is for amendment of headnote and prayer in the main petition. Learned counsel for the petitioner has submitted that inadvertently Section 354 IPC has not been incorporated in the headnote as well as in the prayer part.

The application is allowed. Registry is directed to amend the headnote as well as the prayer in the main petition.

Main Case

Petitioner has filed this petition under Section 439 Cr.P.C. for grant of regular bail pending trial in case FIR No.310 dated 8.9.2020, under Section 354 IPC and Section 8 and 18 POCSO Act (Section 4 read with Section 18 POCSO Act and Section 342 IPC added later on and Section 341 IPC and Section 8/18 POCSO Act deleted). The petitioner is in custody since his arrest on 8.9.2020.

The FIR was registered on the statement of Harcharan Singh

which is as under:-

“To, the SHO, PS Chandimande., Sir; I tis submitted that I, Harcharan Singh son of Bant Ram, am resident of H.No.130, Village Dhandaraddu, PS Chandimander, District Panchkula I have two children, the elder daughter whose age is 16 years and son Nikhil is 14 years of age. Today on 8.9.2020 time about 12.00/12.30 p.m., my daughter Mehak went for some work in the neighborhood. That on the way the house of Anil Kumar @ Shanky son of Yog Raj, is situated, Anil above named boy said to my daughter Mehak that his mother is not at home to serve the food. My daughter Mehak asked came to our home and had food, who then hold my daughter from her arm and pulled her insite the house and bolted from inside. And he tried to use force with my daughter. When after sometime my daughter did not return to home then my wife Rajrani went to search her who saw that foot wear (slipper) of my daughter was there outside of the house of Anil @ Shanky. The above boy open the door after knocking of the door by my wife and ran away after pushing my wife. My daughter Mehak was crying sitting inside, when my wife asked then she narrated whole the incident to her mother. Legal action may kindly be taken against above said boy Anil.”

Learned counsel for the petitioner has argued that as per the allegations in the FIR, the petitioner only attempted to commit wrong act with the victim who is his cousin. He submits that after completion of investigation the trial commenced and the victim was examined as PW1 before the trial Court on 9.3.2021, but she has not supported the prosecution case. According to him, the trial of the case is likely to consume considerable time to conclude, therefore, he prays for release of petitioner

on regular bail during the pendency of the trial.

On the other hand, learned counsel for the State assisted by ASI Rajbir has not disputed this fact that the material prosecution witness has been examined, but still eleven prosecution witnesses remain to be examined.

After considering the learned counsel for the parties and considering the above background, this Court is of the opinion that though the trial has commenced, but is at the initial stage with no possibility of its completion in near future, as still eleven prosecution witnesses remain to be examined. Apart from it, the belligerent re-emergence of pandemic COVID-19 in the region has once again forced the State governments of Punjab, Haryana and U.T. Administration, Chandigarh to impose various restrictions to clamp down the contagion, and it would further delay the conclusion of trial. Admittedly, the petitioner is not involved in any other case of similar nature. Thus, the further detention of the petitioner behind the bars may not be necessary for any useful purpose, who is presently confined in judicial custody after his arrest on 8.9.2020.

Resultantly, without meaning any expression of opinion on the merits of the case, it is ordered that the petitioner be released on regular bail in the above case, subject to his furnishing requisite bail bonds/surety bonds to the satisfaction of the trial Court concerned.

The petition is allowed.

April 20, 2021
Gulati

(MANOJ BAJAJ)
JUDGE

Whether Reportable : Yes/No
Whether Speaking/Reasoned : Yes/No