

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(109+208)

CRM-M-2806-2021(O&M)
Date of Decision: 14.02.2022

Vikram

--Petitioner

Versus

State of Haryana

--Respondent

CORAM:- HON'BLE MR. JUSTICE RAJESH BHARDWAJ.

Present:- Mr. K.P.S. Virk, Advocate for the petitioner.

Mr. B.S. Virk, D.A.G., Haryana.

RAJESH BHARDWAJ.J (Oral)

CRM-4079-2022

Application is allowed as prayed for.

Document Annexure P-3 is taken on record.

Main Petition

The present petition has been filed under Section 439 Cr.P.C seeking the benefit of regular bail to the petitioner in case FIR No.58 dated 3.10.2019 under section 346 I.P.C (later on added sections 376, 328, 506 & 120-B I.P.C and deleted section 328 IPC), registered at Police Station, Nigdhu, District Karnal.

As per factual matrix, the FIR in question was lodged by Raghubir Singh son of Kanshi Ram. It was alleged that he had 3 sons and one daughter namely Geeta aged about 23 years. She was married with Arun about 5 years ago and had been blessed with a son. On 1.10.2019 her daughter went along with her son. They tried their best to search her but remained unsuccessful. A prayer was made to search the daughter of the complainant.

In pursuance to the same the investigation commenced and the petitioner was arrested on 12.10.2020.

The petitioner approached learned Addl. Sessions Judge, Karnal for grant of bail, however, after hearing the parties, the same was declined vide order dated 8.1.2021. Aggrieved by the same petitioner has approached this court for grant of bail.

Learned counsel for the petitioner vehemently contends that petitioner has been falsely implicated in the present FIR. He submits that as per facts of the case the prosecutrix went missing on 1.10.2019 and came back on 19.10.2019. She approached the police on 22.10.2019 and on the next date i.e. 23.10.2019 her statement under Section 164 Cr.P.C was recorded. It is vehemently contended that petitioner has been roped in in the present FIR in a deliberated manner and the name of the petitioner was not in the FIR. However, the same was alleged at the time of recording statement under Section 164 Cr.P.C after a gap of about 23 days from the date prosecutrix eloped away. Counsel submits that as per the statement recorded under Section 164 Cr.P.C there were 3 accused namely Vikram (the present petitioner, Abhishek and Amit. It was alleged that it was Abhishek who mixed some poisonous substance in the food material for intoxicating the family members. However, during investigation the co-accused Abhishek was declared innocent by the investigating agency and the challan was presented only qua the present petitioner and co-accused Amit. Counsel submits that co-accused Amit has already been granted bail by this Court vide order dated 28.2.2020. It is further submitted that false and frivolous allegations of committing rape have been levelled by the prosecutrix, whereas the facts and circumstances of the case would reveal

that prosecutrix is of the age of majority and mother of a child. She remained at a number of public places and traveled in public transports as well, which would reveal that at the most it was a case of consent and hence no offence under Section 376 I.P.C is made out. It is further submitted that now the prosecutrix has been examined before the learned Trial Court, where she has deposed on the same line as she had deposed in her statement recorded under Section 164 Cr.P.C. It is submitted that in the facts and circumstances of the case petitioner deserves to be enlarged on bail.

On the other hand, learned State counsel has opposed the contentions raised by counsel for petitioner. It is submitted that there are specific allegations against the petitioner. State counsel submits that co-accused Amit has been granted bail by this Court as there was no specific allegation of committing rape against him. However, there are specific allegations of committing rape against the present petitioner. It is further submitted that in all there are 12 prosecution witnesses out of which prosecutrix has been examined.

I have heard learned counsel for the parties at length and have gone through the records carefully.

Admittedly, petitioner is behind bars since 12.10.2020. The petitioner as well as the prosecutrix are of the age of majority. Facts of the case reveal that prosecutrix traveled from one place to another by public transports. She went missing on 1.10.2019 and was recovered after a gap of about 19 days. Whether a case under Section 376 I.P.C is made out against the petitioner or not would be evaluated only upon conclusion of the trial. The veracity of allegations and counter allegations would be assessed

by the Trial Court on completion of trial. The co-accused in the case is already on bail. The trial would take sufficiently long time in its conclusion.

In the totality of facts and circumstances and without making any observation on merits, present petition is allowed. Petitioner be enlarged on bail on his furnishing bail/surety bonds subject to satisfaction of Trial Court/Duty Magistrate, concerned. Nothing stated herein shall be treated as an expression on the merits of the case.

(RAJESH BHARDWAJ)
JUDGE

14.02.2022

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Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No