

229 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-2742-2022

Date of Decision: 28.01.2022

SUMIT @ SUNNY

... PETITIONER

VS.

STATE OF HARYANA

.. RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present : Mr. Ajit Singh Lamba, Advocate, for the petitioner.

Mr. Vikas Bhardwaj, AAG, Haryana.

VIVEK PURI, J.(ORAL)

The matter has been taken up through video-conferencing due to COVID-19 pandemic.

Through instant petition, the petitioner is seeking regular bail in case bearing FIR No. 212 dated 20.04.2021 under Sections 328, 354, 376, 376 (2) (f), 506 IPC and Section 3 of SC & ST (Prevention of Atrocities) Act registered at Police Station HTM Hisar.

Briefly, the aforesaid FIR has been registered on the allegation that the prosecutrix was doing labour work in the medicine factory. On 04.08.2020, the petitioner molested her and threatened to eliminate her in the event she disclosed the incident to anyone. Subsequently, on 20.10.2020, the petitioner had called the prosecutrix to Apple Green Hotel and threatened to make her video viral. The prosecutrix was made to consume some intoxicant substance and she became unconscious. The petitioner committed wrong act with her and when the prosecutrix gained consciousness, she found herself to be without any clothes.

Learned counsel for the petitioner contends that there is a delay of six months in lodging the FIR and furthermore, during the course of trial,

the prosecutrix has not supported the prosecution version. She has specifically and categorically stated that the petitioner neither molested nor committed rape nor threatened to kill her. She has also stated that no intoxicant substance was administered to her by the petitioner which resulted in her unconsciousness. It has been further stated that there is no report of FSL to support the version of the prosecutrix.

In pursuance of advance notice, Mr. Vikas Bhardwaj, AAG, Haryana, has appeared and has placed on record custody certificate. He, on instructions from ASI Ranbir, has not assailed the aforesaid factual aspect and has stated that five witnesses still remain to be examined.

Be that as it may, it has not been disputed that the prosecutrix has not supported the prosecution version and furthermore, there is no supporting scientific evidence coming-forth. The petitioner is in custody for more than nine months and is not involved in any other case. Moreover, there is delay of six months in lodging the FIR. As such, sufficient mitigating circumstances are made out to extend the concession of bail to the petitioner. Accordingly, the present petition is allowed and petitioner is ordered to be released on bail, subject to his furnishing bail/surety bonds to the satisfaction of concerned Chief Judicial Magistrate/Illaq Magistrate/Duty Magistrate/trial Court.

However, the aforesaid observations have been circumscribed only for the purpose of disposal of the present bail application and the same shall not be construed as an expression of opinion on the merits of the case.

28.01.2022
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(VIVEK PURI)
JUDGE

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