

CRM-M-4710-2022

Date of decision: 18.04.2022

MALKIAT

...PETITIONER

VERSUS

STATE OF HARYANA

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. Amit Goyal, Advocate
for the petitioner.

Mr. Vikas Bhardwaj, AAG, Haryana.

VIVEK PURI, J. (ORAL)

Custody certificate of the petitioner has been circulated today and the same is taken on record.

Malkiat-petitioner is seeking regular bail in the case bearing FIR No.291 dated 19.07.2021 under Sections 363/366-A IPC, 1860, and Section 376-DA IPC and Section 6 of Protection of Children from Sexual Offences Act, 2012, registered at Police Station Sadar, Sirsa, District Sirsa.

Briefly, the FIR has been registered on the application submitted by the father of the victim alleging that the victim was aged about 14 years and during the intervening night of 18/19.07.2021 at about 12:00 AM, she went missing from the house.

Learned counsel for the petitioner contends that the allegations of commission of forcible sexual intercourse have been levelled against Gokul, the co-accused, who is the brother of the petitioner. The statements of the victim as well as her father have been recorded during the course of trial. The petitioner is in custody for a period of 08 months and 25 days and the conclusion of trial is

likely to take sometime.

The bail application has been opposed by the learned State counsel on the score that the petitioner had facilitated the kidnapping and commission of rape upon the victim by the co-accused. Furthermore, the victim as well as her father have supported the prosecution version during the course of trial.

It is significant to note that the statement of the victim recorded under Section 164 Cr.P.C indicates that Gokul, the co-accused was having telephonic conversation with her. She even left the house at his instance. However, when she went about 2-3 Killas away from the house, Gokul along with the petitioner met her. They took her to the house of their Bua where Gokul committed wrong act upon her. On the following day, the petitioner and his father came to the house and asked the victim to take the blame upon herself by saying that she visited of her own consent. In the evening hours, the petitioner took the victim and Gokul, the co-accused on the motorcycle towards Fatehabad. They were apprehended on the way Gokul, the co-accused managed to run away and the petitioner was apprehended by the parents of the victim.

The allegations of commission of forcible sexual intercourse have not been imputed against the petitioner. There is nothing to suggest that he was in conversation at any point of time with the victim. The statements of the victim and her father have been recorded and as such, it cannot be said that the petitioner can influence or make an effort to win over them. The petitioner is in custody for a period of 08 months and 25 days and the conclusion of the trial is likely to take some time. As such, no fruitful purpose will be served by detaining the petitioner in further custody and sufficient mitigating circumstances are made out to extend the concession of the bail to the petitioner.

Without expressing any opinion on the merits of the case, the instant

furnishing requisite bail bonds to the satisfaction of the learned trial Court/Duty Magistrate concerned.

The petition is allowed accordingly.

18.04.2022
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(VIVEK PURI)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No