

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Sr. No. 214

CRM-M-9780-2022

Date of decision : 29.08.2022

Rubal

..... Petitioner

VERSUS

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr.Mayank Gupta, Advocate, for the petitioner.

Ms.Sheenu Sura, DAG, Haryana.

DEEPAK SIBAL, J. (ORAL)

On 03.08.2022 this Court had passed the following order: -

“On 23.05.2022, this Court had directed the State to produce the prosecutrix before the Trial Court but the State did not.

No explanation is also forthcoming from the learned State counsel as to why the order of this Court dated 23.05.2022 was not complied with.

Let notice be issued to the Superintendent of Police, Jind as to why for such lapse proceedings under the Contempt of Courts Act, 1971 be not initiated against him.

Mr. Anmol Malik, DAG, Haryana, accepts notice on behalf of the alleged contemner and prays for time to file his affidavit.

Permitted to do so.

The same be filed at least three days before the adjourned date.

Adjourned to 29.08.2022.

Before the adjourned date, the State shall ensure that the prosecutrix is produced before the Trial Court with a further direction to the Trial Court to make every endeavour to examine her.”

In pursuance to the afore quoted order Superintendent of Police, Jind has filed his affidavit dated 23.08.2022 as per which the order of this Court dated 23.05.2022 was complied with as on 08.06.2022 the prosecutrix had been produced and examined in the petitioner's trial. The affidavit further goes on to state that the afore confusion was caused due to incorrect briefing given to the office of the Advocate General, Haryana.

In the light of the afore stand which remains unrebutted the contempt proceedings qua Superintendent of Police, Jind are dropped and notice is discharged.

The present petition has been filed under Section 439 Cr.P.C. for the grant of regular bail in FIR No.116 dated 12.08.2021 registered under Sections 4 and 6 of the Protection of Children from Sexual Offences Act, 2012 at Police Station Alewa, District Jind.

The petitioner is being prosecuted for having raped a minor girl.

Learned counsel for the petitioner contends that the petitioner who is a 20 year old boy has been falsely implicated in this case; he does not have any other criminal antecedents; he is in custody since 02.09.2021; in the FIR the allegations were against one Akshay; in the statement got recorded by the prosecutrix on 12.08.2021 before the Magistrate under Section 164 Cr.P.C. she has specifically stated that no wrong act had been committed with her; during her medical examination the prosecutrix refused to undertake any internal examination; as per the prosecutrix's MLR, in the external examination of herself, no injury has been found; in the FSL report no semen has been detected on any of the exhibits sent for forensic examination; all material prosecution witnesses, including the prosecutrix, stand examined in the petitioner's trial and therefore the petitioner is in no position to influence the trial and that since 13 prosecution witnesses still remain to be examined the petitioner's trial is likely to take a long time to conclude.

Learned State counsel opposes the grant of regular bail to the petitioner on the ground that he has kidnapped and raped a minor girl.

The petitioner is a 20 year old boy; he has no other criminal antecedents; he is in custody for the last nearly one year; as per the prosecutrix's MLR she had refused internal examination and her external examination shows no injury on her person; as per the FSL report no semen has been detected on any of the samples of the prosecutrix sent for forensic evaluation; in the FIR as also the statement got recorded by the prosecutrix under Section 164 Cr.P.C. on 12.08.2021 the petitioner was not named to be the culprit; all material prosecution witnesses,

including the prosecutrix, already stand examined in the petitioner's trial and that since 13 prosecution witnesses still remain to be examined in the petitioner's trial, the same is likely to take a long time to conclude.

In view of the above, the present case is considered to be a fit one in which the petitioner be directed to be released on regular bail. Resultantly, subject to the satisfaction of the concerned CJM/Duty Magistrate, the petitioner is directed to be released on bail.

It is clarified that the above observations have been made only for the limited purpose of deciding the present regular bail application and the same would not be construed to be an expression of opinion on the merits of the case.

29.08.2022
shamsher

[DEEPAK SIBAL]
JUDGE

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