

**234 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRM-M-11389-2022
Date of Decision: 27.07.2022

NASEEB **... PETITIONER**
VS.
STATE OF HARYANA **.. RESPONDENT**

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present : Mr.Surinder Gaur , Advocate
for the petitioner.

Mr. Zorawar Singh Chauhan, Deputy Advocate General, Haryana.

VIVEK PURI, J.(ORAL)

The petitioner is seeking regular bail in case bearing FIR No.307 dated 30.10.2019 under Sections 216/365/376DA/452/506/34 IPC, Section 6 of POCSO Act and 3(1)(b) SC/ST Act (whereas the FIR was got registered under Sections 365/375DA/452/34 IPC and Section 6 of POCSO Act) registered at Police Station IMT, Rohtak.

Custody certificate has been placed on record.

Briefly, as per the allegations, on 28.10.2019, the petitioner alongwith co-accused took the victim, aged about 14 years, on a motorcycle and turn by turn committed rape upon her.

Learned counsel for the petitioner contends that the petitioner is in custody for a period of 02 years, 08 months and 22 days and not involved in any other case. Furthermore, the victim in her statement under Section 164 Cr.P.C., has given a discrepant version. Besides, during the course of trial, the statement of the victim has been recorded but she has not supported the prosecution version. So far, only 5 out of 28 witnesses have been examined and conclusion of trial is likely to take some time.

Learned State counsel has resisted the bail application on the score that the DNA analysis of the spermatozoa found on the clothes of the victim, has matched with the petitioner.

On a query, the learned State counsel, on instructions from ASI Sombir, submits that no spermatozoa were detected in the vaginal swabs. It has not been disputed that the victim has not supported the prosecution case during the course of trial, the petitioner is in custody for a period of 02 years, 08 months and 22 days and only 5 out of 28 witnesses have been examined so far. The involvement of the petitioner in commission of crime on the basis of DNA analysis will be a debatable and moot point during the course of trial. Furthermore, the conclusion of trial is likely to take some time and no fruitful purpose will be served by keeping the petitioner behind the bars.

In these set of circumstances, sufficient grounds are made out to extend the concession of bail to the petitioner. Accordingly, without making any observation on the merits of the case, 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 trial Court/Chief Judicial Magistrate/Illaqa Magistrate/Duty Magistrate.

27.07.2022
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(VIVEK PURI)
JUDGE

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