

217 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Date of Decision: 06.09.2022
CRM-M-11959-2022 (O&M)

SUNIL KUMAR ... PETITIONER
VS.
STATE OF HARYANA .. RESPONDENT

CRM-M-8068-2022 (O&M)

KRISHAN KUMAR ... PETITIONER
VS.
STATE OF HARYANA .. RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present : Mr. Simranjeet Singh, Advocate, with
Ms. Simranjit Kaur, Advocate,
for the petitioner(s).

Mr. Bhupender Singh, DAG, Haryana.

Mr. S.S.Sahu, Advocate, for the complainant.

VIVEK PURI, J.(ORAL)

The petitioners are seeking regular bail in the case bearing FIR No.109 dated 21.06.2021 registered at Police Station Bhattu Kalan, District Fatehabad.

Custody certificates have been placed on record.

Briefly, as per the allegations of the prosecution, the prosecutrix is aged about 26 years and hailing from Sirsa. She is residing separate from her husband. At the instance of Anil, she came to Adampur and stayed with Suraj, Chandni, Anil and Pooja. She was taken to an old person and sold for a sum of Rs.40,000/-. The old person had been committing wrong act with her for 20 days. Subsequently, one driver and aged person brought her to Bhadra, where, she was made to solemnize marriage with Sunil Kumar-petitioner. She stayed with him for a period of 1½ months and Sunil Kumar-petitioner had been committing wrong act with her. Subsequently, on finding an opportunity, she informed her brother.

Learned counsel for the petitioners contend that the name of Krishan Kumar-petitioner has not been mentioned in the FIR. Furthermore,

the statement of the prosecutrix has been recorded during the course of trial wherein, she has not supported the prosecution version. She has specifically and categorically stated that the petitioners neither committed rape nor gang rape upon her nor threatened her. The petitioners are in custody for a period of 01 year, 01 months and 27 days and not involved in any other case.

Learned State counsel has submitted that though the name of Krishan Kumar-petitioner has not been specifically mentioned in the FIR but he is an old man to whom the prosecutrix/victim was sold at the first instance and he had been committing rape upon her. Furthermore, out 30, 28 witnesses have been examined but the report of DNA analysis is still awaited. He has not disputed the fact that the prosecutrix during the course of her statement of trial Court, has not supported the prosecution version.

In the instant case, although 28 out of 30 witnesses have been examined but significantly the report of DNA analysis has not yet been received. Consequently, it cannot be said at this stage that the evidence of the prosecution will be concluded in a short period of time. Moreover, the prosecutrix during the course of her statement in the trial Court, has not supported the prosecution version. She has categorically and specifically stated that the petitioners had neither committed rape nor gang rape nor threatened her.

Keeping in view the entire circumstances, sufficient grounds are made out to extend the concession of bail to the petitioners. Accordingly, without making any observation on the merits of the case, the present petitions are allowed and petitioners are ordered to be released on bail, subject to their furnishing bail/surety bonds to the satisfaction of concerned trial Court/Chief Judicial Magistrate//Duty Magistrate.

06.09.2022
smriti

(VIVEK PURI)
JUDGE

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