

233 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-13075-2022

Date of Decision: 12.05.2022

SUNIL KUMAR @ MONU

... PETITIONER

VS.

STATE OF HARYANA

.. RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present : Mr. Raman Chawla, Advocate, for the petitioner.

Mr. Vikas Bhardwaj, AAG, Haryana.

VIVEK PURI, J.(ORAL)

The petitioner is seeking regular bail in case bearing FIR No.09 dated 20.01.2021 under Sections 363 and 366-A IPC (offence under Section 376 (2) (n) IPC and Section 6 of POCSO Act added later on) registered at Police Station Baragudha, District Sirsa.

Status report by way of affidavit of Sadhu Ram, Deputy Superintendent of Police, Sirsa and custody certificate have been placed on record.

Briefly, the case has been registered on the basis of the statement of mother of the victim alleging that on 19.01.2021, the victim went for school and did not return back.

Learned counsel for the petitioner contends that in her statement under Section 164 Cr.P.C., the victim has stated that after having a quarrel with the family members, she had gone to Hisar. She has not imputed any allegation with regard to any threat or allurement given to her by the petitioner. Even she has not imputed anything with regard to sexual assault having been committed upon her. Moreover, the statement of the victim in the trial Court has also been recorded, wherein also she has not supported the prosecution version. She has categorically made a statement

in the trial Court that the petitioner was not known to her and has not committed any wrong with her.

Learned State counsel has argued that at the time of medical examination, the victim had given the history of commission of forcible sexual intercourse by the petitioner. He has not disputed that no semen was detected from the vaginal swabs and the clothes of the victim.

The petitioner is in custody for a period of 01 year, 03 months and 20 days and not involved in any other case. The victim has not attributed any allegation with regard to kidnapping or commission of sexual intercourse much less forcible sexual intercourse against the petitioner in her statement recorded under Section 164 Cr.P.C and during the course of trial. Even the parents of the victim have not supported the prosecution version.

As such sufficient mitigating circumstances are made out to extend the concession of bail to the petitioner. Accordingly, without commenting anything 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/Duty Magistrate.

12.05.2022
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(VIVEK PURI)
JUDGE

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