

MOHIT

...PETITIONER

VERSUS

STATE OF HARYANA

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. Ankit Grewal, 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.

Mohit-petitioner is seeking regular bail in the case bearing FIR No. 225 dated 22.08.2020 under Sections 328/452/376/376-D(A)/506/34 IPC and Sections 4 and 6 of POCSO Act and 3(2)(V) SC/ST Act, registered at Police Station Lakhan Majra, District Rohtak.

Briefly, as per the allegations of the prosecution, the victim is aged about 13 years and at the instance of the petitioner, he had administered stupefying material by mixing in the milk to her family members who became unconscious. On 20.08.2020, at about 11:00 PM, the petitioner entered the house and started committing rape upon the victim. His co-accused, namely, Sandeep raised alarm that neighbours will wake up and consequently, the petitioner managed to slip away.

Learned counsel for the petitioner contends that during the course of MLR, no injury has been observed and even, as per the report of FSL, the semen could not be detected. Furthermore, out of 25, only 07 witnesses have been

examined so far. The victim as well as all the private witnesses have been examined and only official witnesses remain to be examined.

Learned State counsel has mainly opposed the bail application on the score that the victim is aged about 13 years at the time of occurrence and during the course of her deposition in the Court, she has also supported the prosecution version.

It is significant to note that the victim as well as private witnesses have been examined and out of 25, only 07 witnesses have been examined so far. The remaining witnesses are stated to be official witnesses and as such, it cannot be said that the petitioner can win over them. At the time of medical examination, no injury was found on the person of the victim. Even, the FSL report indicates that the semen could not be detected. In such circumstances, the allegations with regard to commission of sexual intercourse upon the victim will be a debatable and moot point during the course of trial. The conclusion of trial is likely to take sometime. The petitioner is in custody for a period of 01 year, 10 months and 06 days. The custody certificate further indicates that the petitioner is not involved in any other case. As such, sufficient mitigating circumstances are made out to extend the concession of bail to the petitioner.

Without expressing any opinion on the merits of the case, the instant petition is allowed. The petitioner is ordered to be released on bail on his furnishing requisite bail bonds to the satisfaction of the learned trial Court/Duty Magistrate concerned.

The petition is allowed accordingly.

06.07.2022
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(VIVEK PURI)
JUDGE

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