

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(226)

CRM-M-18472-2022

Date of Decision: 09.05.2022

Babulal

--Petitioner

Versus

State of Haryana

--Respondent

CORAM:- HON'BLE MR. JUSTICE RAJESH BHARDWAJ.

Present:- Mr. R.N. Lohan, Advocate for the petitioner.

Mr. Kirpal Singh, A.A.G., Haryana.

RAJESH BHARDWAJ.J (Oral)

The present petition has been filed under Section 439 Cr.P.C praying for grant of regular bail to the petitioner in case FIR No.200 dated 17.12.2021 registered under sections 346, 323, 376-D, 376(2)(N), 120-B, 506 IPC and Section 3 of SC/ST Act at Police Station, Satnali, District Mohindergarh.

As per facts of the case, present FIR was lodged by the complainant namely Balwan Singh. It was alleged that his daughter i.e. victim (name concealed) was 20 years of age. She went to the hospital from home on 17.12.2021 at 8 A.M to take medicine, however, till evening she did not reach home. They inquired from the neighbors and from all relations but got no information. They inquired from the coaching centre also where she used to take coaching, however, failed to get any information from there also. It was suspected that some unknown person had kept her hiding in illegal confinement at some secret place. A prayer was made to take legal action against the culprits.

The investigation commenced and the victim was recovered on 19.12.2021. Her statement under Section 164 Cr.P.C was recorded and the

supplementary statement was also recorded. The petitioner was arrested on 8.1.2022. He approached learned Addl. Sessions Judge, Narnaul for grant of bail, however, after hearing the parties, the same was declined vide order dated 2.4.2022. Aggrieved by the same petitioner has approached this court for grant of bail.

Learned counsel for the petitioner has vehemently contended that the petitioner has been falsely and frivolously implicated in the present case. He submits that from the perusal of the FIR, it is apparent that there are no allegations against the petitioner. It is submitted that it is only in the statement of the victim recorded under Section 164 Cr.P.C that there was only one allegation by the victim regarding the presence of the petitioner in the alleged Alto car. He submits that the supplementary statement of the victim was also recorded on 28.1.2022, however, a perusal of both the statements shows that there are material contradictions in the same. Counsel submits that after her recovery, victim was medically examined and the MLR would show that there were no injury marks on the person of the victim. It is submitted that the petitioner is an elderly person and a shopkeeper, who has no criminal antecedents and hence he deserves to be granted the concession of bail.

On the other hand learned State counsel has strongly opposed the submissions made by counsel for petitioner and submits that there are specific allegations against the petitioner. He submits that the statement of the victim was recorded under Section 164 Cr.P.C on 19.12.2021 by the JMIC, Mohindergarh. He further submits that victim has specifically deposed that on 17.12.2021 at 9.30 AM she was going to Satnali Hospital to take medicine. When she was waiting for an auto, a pick-up van came there

in which a boy named Kalia whom she knew earlier was also sitting. He called her to board the pick-up and on her boarding she found one Sonu, who was driving the pick-up van. Thereafter, she was taken to Oyo Hotel, where she was raped by Sonu. Thereafter Sonu shifted her from the pick-up van to an Alto car. She was taken by the Alto car and on reaching the bus stand she was again shifted to a truck. The truckers took her forcibly at a deserted forest and she was again raped there. She deposed that in the Alto car in which she was shifted from the pick-up van the present petitioner was also present. It is also submitted that the petitioner is a friend of the main accused Sonu who had abducted the victim and raped her. He submits that the petitioner played an active role in this case along with the main accused Sonu. It is submitted that the case is at the threshold as the challan has been presented. State counsel submits that taking into consideration the complicity of the petitioner, present petition deserves to be dismissed.

I have heard learned counsel for the parties at length and have gone through the record carefully.

The petitioner has been specifically mentioned by the victim while recording her statement under Section 164 Cr.P.C. She has specifically deposed that she was abducted by Sonu in a pick-up van and was taken to a hotel, where she was raped. She was again shifted to an Alto car and the petitioner was duly present along with Sonu. The allegations levelled by the victim are regarding gang rape committed by the accused. The petitioner has played an active role. The trial is at the initial stage.

Taking into consideration the sensitivity of the case, this Court is of the opinion that granting bail to the petitioner, at this stage, would

hamper the ongoing trial. Resultantly, the petition being devoid of any merit is, accordingly, dismissed. Nothing stated herein shall be treated as an expression on the merits of the case.

09.05.2022

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(RAJESH BHARDWAJ)
JUDGE

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