

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

222

CRM-M-20572 of 2022
Date of decision:30.08.2022

Amar Yadav @ Pardeep Kumar ... Petitioner

Vs.

State of Haryana ... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. R.S.Mamli, Advocate
for the petitioner.

Ms. Deepshikha Chauhan, AAG, Haryana.

SUVIR SEHGAL, J. (Oral)

Instant petition has been filed under Section 439 Cr.P.C, seeking grant of regular bail to the petitioner in case FIR No.0281 dated 17.07.2021 registered under Sections 506, 34 of Indian Penal Code, 1860 and Section 6 of Protection of Children from Sexual Offences Act, 2012, at Police Station Palam Vihar, Gurugram, District Gurugram.

Criminal law has been set in motion on the basis of complaint given by a 15 year old prosecutrix on the allegation that when she was alone at home, Pardeep (present petitioner), who works in a clinic in Shani Vihar Katarpuri and stays in a rented accommodation, sexually exploited her and threatened to eliminate her in case she confided in anyone. Pardeep came regularly to her house and continued to exploit her when she was alone. On 16.07.2021, she complained of stomachache to her mother, who took her to a Govt. Hospital, where she was found to be pregnant. She has requested

that action be taken against Pardeep for sexually assaulting her.

Counsel for the petitioner has made a reference to the testimony of the prosecutrix, PW3 to submit that in her deposition, she has stated that in February-March, 2021, when she was alone at home, an unknown person entered her house and raped her. He submits that prosecutrix has categorically stated that she has not been impregnated by the petitioner. Reference has also been made by counsel to the testimonies of the mother and brother of the prosecutrix, who have been examined as PW4 and PW10, respectively, to submit that both these witnesses have also turned hostile. He asserts that petitioner, who has a clean past and is in custody since 24.07.2021, deserves to be enlarged on bail.

Opposing the petition, State counsel upon instructions from L/SI Poonam submits that prosecutrix has specifically named the petitioner in the FIR as well as in her statement recorded under Section 164 Cr.P.C. She submits that pregnancy of the prosecutrix was subsequently terminated and the DNA report is awaited. As per her instructions, 09 out of total 20 prosecution witnesses have been examined.

Having considered the submissions made by counsel for the parties, this Court is *prima facie* of the view that culpability of the petitioner in the offence would remain controvertible before the Trial Court. The petitioner, who is in custody for the last more than 13 months, would be entitled to be released on bail as the prosecution is yet to examine 11 more witnesses and the trial is not likely to conclude in immediate future.

Without advertng to the merits or demerits of the arguments addressed by counsel for the parties, petition is allowed and petitioner is ordered to be released on bail on furnishing bail/surety bonds to the satisfaction of the Trial Court/Duty Magistrate concerned.

It is clarified that any observation made hereinabove shall not be construed to be an expression of opinion on the merits of the case.

August 30, 2022

savita

(SUVIR SEHGAL)
JUDGE

<i>Whether Speaking/Reasoned</i>	<i>Yes</i>
<i>Whether Reportable</i>	<i>Yes</i>