

CRM-M-21718-2022

Date of Decision: 29.11.2022

SHARUKH

... PETITIONER

V/S

STATE OF HARYANA

... RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. Afjal Hussain, Advocate for the petitioner.
Mr. Dhruv Sihag, AAG Haryana.

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VIVEK PURI, J. (ORAL)

The petitioner is seeking regular bail in case bearing FIR No. 324 dated 05.10.2021 under Sections 363, 366-A, 376-D IPC and Section 6 of Protection of Children from Sexual Offences Act, registered at Police Station Punhana, District Nuh (Mewat).

Learned counsel for the petitioner contends that the FIR has been lodged at the instance of the father of the victim. It has been alleged that the victim is aged about 17 years and she went missing from the house. As such, the FIR was recorded with regard to the offence under Section 346 IPC. Subsequently, the victim was recovered and in her statement recorded under Section 164 Cr.P.C., she has levelled allegations against the petitioner. Consequently, offence under Section 346 IPC was deleted and the offenses under Sections 363, 366-A, 366-D IPC and Section 6 of Protection of Children from Sexual Offences Act were incorporated. It has been further submitted that the victim as well as her father i.e. the complainant have not supported the prosecution version during the course of trial. Even the report of DNA analysis has not been received. The petitioner is in custody for a period of 1 year, 1 month and 13 days and is not involved in any other case.

Learned State counsel has opposed the bail application on the score that the report of DNA analysis is yet to be received. However, it has not been disputed that the victim and her father have not supported the prosecution version.

It is significant to note that in her statement recorded during the course of trial, the victim has categorically and specifically stated that the petitioner never committed rape upon her at any point of time and he did nothing wrong with her. On the previous date of hearing, it was specifically directed that in the event, the report of DNA analysis is not received by the adjourned date, appropriate orders with regard to final disposal of the petition shall be passed. Out of 14, 5 witnesses are stated to have been examined. The report of DNA analysis has not yet been received. In such circumstances, the conclusion of trial is likely to take some more time and no fruitful purpose would be served by detaining the petitioner in further custody.

As such, sufficient mitigating circumstances are made out to extend the concession of bail to the petitioner. Therefore, without making any expression of opinion on the merits of the case, it is ordered that the petitioner be released on regular bail subject to his furnishing fresh bail bonds/surety bonds to the satisfaction of the concerned trial Court/Chief Judicial Magistrate/Duty Magistrate.

The petition is allowed.

29.11.2022

Janki

(VIVEK PURI)
JUDGE

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