

212 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-22820-2022
Decided on : 28.07.2022

Vikram

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Himanshu Sharma, Advocate
for the petitioner.

Mr. Rohit Arya, DAG, Haryana.

Manjari Nehru Kaul, J.(Oral)

This is the second petition filed under Section 439 Cr.PC for grant of regular bail to the petitioner in case FIR No.347 dated 07.10.2019 under Sections 447 IPC and Sections 6 and 8 of POCSO Act registered at Police Station Dharuhera District Rewari.

Learned counsel for the petitioner submits that subsequent to the dismissal of previous petition on 27.08.2021, some more prosecution witnesses have been examined and the trial has still not concluded. He submits that it is a case of false implication as alleged occurrence in question took place in a busy locality and hence, it could not have been possible for the petitioner to have mustered the courage to enter the house of the victim during the day, sexually assault her and that too in the presence of her twin sister as well as a younger sibling, aged 5 years and then flee away. Learned counsel further submits since there was a history of

enmity between the parties, that is why the parents of victim, aged 7 years, had fabricated a false case and implicated him in the crime in question. He still further submits that as the petitioner has been in custody since 07.10.2019 and the material witnesses i.e. victim and the father of the victim stand examined, his further incarceration would serve no useful purpose.

Per contra, learned State counsel while opposing the prayer and submissions made by the counsel opposite submits that since the previous petition was dismissed on merits, the instant petition does not merit acceptance. On merits, while inviting the attention of this Court to the allegations levelled in the FIR, learned counsel submits that it was categorically alleged by the complainant i.e. father of the victim in the FIR, which was lodged promptly within 5 hours of the crime coming to light, that the petitioner had come to his house in his absence and sexually assaulted the victim. Learned State counsel submits that just a few hours prior to the occurrence in question, the petitioner had visited the house of the victim, thereafter left in the company of victim's father and soon thereafter, returned in the absence of the parents of the victim and committed the alleged offence, hence, he was easily identified and named by the victim. Learned State counsel still further submits that when the mother of the victim returned home, the victim as well as her sisters categorically told their mother that “in the morning at the room one uncle had come to papa and after going away with papa, that uncle again had come to our room and after taking Apiya and Ambiya to the bed, he started molesting/touching them and uncle removed my clothes and put finger at the place of passing of urine”. He submits that the victim as well as her sister, who witnessed the

crime while stepping into the witness box too, gave a vivid account of the crime committed and despite being subjected to a lengthy cross-examination, the defence was unable to create any dent in their deposition. He thus, submits that no doubt, the petitioner has been in custody for more than 2½ years having been arrested on 07.10.2019 but in the wake of serious and heinous offence committed by him on a minor aged just 7 years, he be not extended the concession of bail, more so, as the prosecution version finds due corroboration from the MLR of the victim also.

Heard learned counsel and perused the relevant material available on record.

In the facts and circumstances as enumerated hereinabove and the prima facie allegations levelled in the FIR coupled with the medical evidence led, this Court does not deem it fit to extend the concession of bail to the petitioner. Accordingly, the present petition stands dismissed. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

28.07.2022
sonia

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned:
Whether reportable :

Yes/No
Yes/No