

**CRM-30399-2022 in/and
CRM-M-22511-2022
Date of Decision: 26.08.2022**

JAGBIR ... PETITIONER
VS.
STATE OF HARYANA .. RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present : Mr. Balkar Singh, Advocate
for the petitioner.

Mr. Zorawar Singh Chauhan, Deputy Advocate General, Haryana.

VIVEK PURI, J.(ORAL)

CRM-30399-2022

This is an application for placing on record deposition sheet of witness examined as PW-6 as Annexure P-2.

For the reasons stated in the application, the same is allowed.
Annexure P-2 is taken on record, subject to all just exceptions.

Registry is directed to annex the same at appropriate place.

Application is disposed of.

CRM-M-22511-2022

The petitioner is seeking regular bail in case bearing FIR No.118 dated 16.03.2021 under Sections 376 (2)N,384, 450 and 506 IPC (Initially FIR was registered under Sections 376 and 506 IPC later on Section 376 (2) N instead of Section 376 and Sections 384 and 506 IPC were added) registered at Police Station Sadar Sonipat, District Sonipat.

Custody certificate has been placed on record.

Learned counsel for the petitioner contends that the FIR has been registered on the basis of the statement of the prosecutrix, aged about 31 years, alleging that she came in contact with the petitioner and has imputed allegation of commission of rape on different occasions i.e. 11.01.2021, 22.01.2021 and 05.02.2021. However, the FIR has been lodged on 16.03.2021 after a significant delay. During the course of trial, the statement of the prosecutrix has been recorded and she has not supported

the prosecution version. Even, as per the report of chemical examiner, no semen has been detected from the clothes or vaginal swabs. Though, the semen has been detected from the underwear of the petitioner but significantly, the FIR has been registered after a lapse of period of about more than one month from the last incident and even the petitioner was arrested on 17.03.2021. Consequently, the presence of spermatozoa on his clothes becomes insignificant in the instant case.

Learned State counsel has opposed the bail application on the score that there are serious allegations of commission of rape on repeated occasions levelled against the petitioner. It has been pointed out that out of 14, 7 witnesses have been examined so far.

It may be mentioned here that the prosecutrix during the course of trial has not supported the prosecution version. She is a married lady having strained relations with her husband. She has specifically and categorically stated that the petitioner has not committed any offence with her. The evidentiary value of presence of spermatozoa on the underwear of the petitioner cannot be termed to be a significant factor at this stage while extending the concession of bail to the petitioner. The petitioner is in custody for a period of 01 years, 05 months and 07 days and not involved in any other case. The conclusion of trial may take some more time and no fruitful purpose would be served by detaining the petitioner behind the bars.

In such circumstances, sufficient grounds are made out to extend the concession of bail to the petitioner. Accordingly, without making any observation on the merits of the case, the present petition is allowed and petitioner is ordered to be released on bail, subject to his furnishing bail/surety bonds to the satisfaction of concerned trial Court/Chief Judicial Magistrate/Illaq Magistrate/Duty Magistrate.

26.08.2022
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(VIVEK PURI)
JUDGE

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