

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-23396-2022

Date of decision : 22.12.2022

Anil Kumar

.....Petitioner

versus

State of Haryana

..... Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Jitender Nara, Advocate
for the petitioner.

Mr. B.S. Virk, DAG, Haryana.

RAJESH BHARDWAJ, J. (Oral)

Petitioner has approached this Court praying for grant of regular bail in case FIR No.203 dated 09.05.2021, under Sections 120-B, 365, 354, 376-D, 342, 506 of IPC (Section 376(2)(N) IPC added later on), registered at Police Station City Bahadurgarh, District Jhajjar, Haryana.

Status report by way of affidavit of Mr. Pawan Kumar, HPS, Deputy Superintendent of Police, Bahadurgarh, District Jhajjar filed by learned State counsel is taken on record.

In the nutshell, the facts of the case that the present complaint was lodged by father of the prosecutrix who died on 30th April, 2021. The complainant-father had alleged that the delegation of six persons including Anil Malik, Anuj Singh Chanaut, Ankush Sangwan and Kovita Arya which belong to Kisan Social Army (KSA) went to West Bengal. His daughter i.e. The deceased-prosecutrix was also an activist and she came in contact with the delegation from Calcutta. Thereafter, when the delegation returned back then she came along with them to

Delhi by train. On 12th April, 2021, they reached Delhi. She stayed with the delegation in the camp of the Kisan Agitation which was going on at Tikkri Border. It was alleged that his daughter told him on phone on 14th April, 2021 that Anil Malik and Anup Singh Chanaut are not decent people and they were pressurizing and blackmailing her. He was in touch with her on phone. On 16th April, 2021, she told him that she had confided Yogita and Jagdish and Yogita has also made video of her statement on the same date in the presence of Jagdish. He requested Yogita to send the same to him on whatsapp. On 16th/17th April, 2021, his daughter had told him that she had passed blood in urine. On 17th April, 2021, he spoke to Yogita and requested her to help his daughter. It was also informed by his daughter that on 18th April, 2021 that she had contacted lawyers regarding sexual harassment caused to her by the accused. On 21st April, 2021, she developed mild fever followed by vomiting and loose motion. Dr. Amit Vats was requested to give medical help to his daughter. It was alleged that on 25th April, 2021, his daughter was taken by Anil and Anup in their car to Hansi and the complainant was informed that they were taking her daughter to West Bengal. However, Yogendra Yadav who is also one of the leader of Kisan Agitation told them telephonically that she should be brought back to camp and hence, she was brought back. On 26.04.2021, she was taken to PGI, Rohtak but as there was no availability of bed, she was taken to Shivam RR Hospital, Bahadurgarh. The complainant reached there from West Bengal to meet his daughter on 29th April, 2021. However, his daughter died in Shivam RR Hospital, Bahadurgarh on 30.04.2021. He alleged that during his meeting with his daughter on 29th April, 2021, she

told that wrong act has been committed with her. However, on the next day i.e. 30.04.2021, she died. On the basis of this complaint, formal FIR was lodged initially against four accused namely, Jagdish, Ankur Sangwan, Anil Kumar (petitioner) and Anup. Accordingly, the investigation commenced and the petitioner was arrested on 09.06.2021. He approached the Court of learned Additional Sessions Judge (Exclusive Court), Jhajjar praying for grant of bail. However, after hearing counsel for both the sides, learned Additional Sessions Judge declined the same vide his order dated 13th May, 2022. Aggrieved by the same, petitioner is before this Court praying for grant of regular bail.

It has been vehemently contended by counsel for the petitioner that the petitioner has been roped in the present FIR with due deliberations. He has submitted that admittedly, both the petitioner and the deceased-daughter of the complainant are of the age of majority. He submits that the death of the daughter of the complainant had taken place in the hospital on 30th April, 2021 whereas, the present FIR has been lodged on 09.05.2021 i.e. after nine days. He submits that evidently, the petitioner was part of the delegation which visited West Bengal and the daughter of the complainant was also an activist and she duly joined the delegation and came along with the delegation to Delhi. During this period, she remained with this delegation along with rest of the activists. The occurrence as alleged by the complainant is in the public place where thousands of participants in the agitation were staying. It has been alleged that the daughter of the complainant confided everything to Yogita and she made a video also of the same. He submits that the prosecution has examined Yogita as PW-3 and she has not supported the

case of the prosecution and thus, has been declared hostile. He further submits that the deceased was admitted in the hospital and her father also joined her a day prior to her death. The investigating agencies had every opportunity to record the statement of the deceased if at all there was any foul play that took place with her. There is nothing on record to show any such action taken by the doctors or any investigating agencies. He further submits that there is no postmortem report of the body of the deceased and thus, there is only ocular version of the prosecution witnesses which is not corroborated by any other evidence. He has submitted that the implication of the petitioner is totally false who is behind bars since 09.06.2021. He also submits that the prosecution has examined the material witnesses including father of the deceased-prosecutrix. He submits that the petitioner has no criminal antecedents and thus, he deserves to be granted regular bail.

Learned State counsel, on the other hand, has vehemently opposed the submissions made by counsel for the petitioner. He has submitted that the deceased-prosecutrix joined the delegation and thereafter, there are allegations against the petitioner and his co-accused that she was sexually exploited by them. He has also submitted that the prosecutrix was taken by them in car to Hansi. However, it was on the call of Sh. Yogendra Yadav that she was brought back to the camp. He submits that the prosecutrix was admitted in the hospital as it was COVID-19 period and she died on 30th April, 2021. He submits that the postmortem of the deceased could not be conducted as she died of COVID-19. He submits that the complainant i.e. father of the deceased-prosecutrix has been examined by the trial Court as PW-1 and he has

supported the case of the prosecution. He submits that as per the instructions, the petitioner is not involved in any other case except the present case.

I have heard counsel for the parties and perused the record.

Admittedly the petitioner and the prosecutrix both are of the age of majority. The deceased-prosecutrix joined the delegation from Calcutta and she remained with other activists during her stay from 12th April, 2021. She reached Delhi along with the delegation on 12th April, 2021 and died on 30th April, 2021 i.e. after about 18 days. On 26th April, 2021, she was admitted in the hospital, however, she died due to COVID-19 on 30th April, 2021. The complainant-father joined her on 29th April, 2021. Admittedly, postmortem of the body of the deceased was not conducted due to COVID-19 as submitted by learned State counsel.

The allegations pertaining to the sexual assault as submitted before this court were confided by Yogita. However, it has been brought to the notice of this Court that Yogita had been examined as PW-3 but she has not supported the case of the prosecution, thus, was declared hostile. The prosecution has examined 10 witnesses, out of total, 38 prosecution witnesses including father of the deceased-prosecutrix. There is nothing on record to show that the petitioner has any criminal antecedents. The Court would refrain from commenting anything on the merits of the case. The veracity of the allegations would be evaluated by the trial Court on the appreciation of the evidence to be led by both the sides.

The trial of the case will take sufficiently long time. However, confining itself to the prayer made for bail, this Court finds that counsel for the petitioner succeeds in making out a case for grant of

regular bail. Accordingly, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail/surety bonds to the satisfaction of the concerned trial Court/Duty Magistrate.

22.12.2022
m. sharma

(RAJESH BHARDWAJ)
JUDGE

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