

CRM-M-26078-2022

Date of Decision: 29.08.2022

AMARJEET

... PETITIONER

V/S

STATE OF HARYANA AND ANOTHER

... RESPONDENTS

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. Harikesh Singh, Advocate for the petitioner.
Ms. Trishanjali Sharma, DAG Haryana.

* * *

VIVEK PURI, J. (ORAL)

Amarjeet s/o Mukesh, petitioner is seeking regular bail in case bearing FIR No. 428 dated 23.07.2020 under Sections 328, 363, 366-A, 376DA, 506 IPC and Sections 6, 8 of Protection of Children from Sexual Offences Act, registered at Police Station Assandh, Karnal.

Custody certificate has been placed on record.

Learned counsel for the petitioner contends that initially the FIR has been registered under Section 365 IPC on the basis of the statement of the father of the victim alleging that she went missing from the house on 23.07.2020 in the afternoon hours. Subsequently, the victim was recovered from bus stand, Hisar on 23.07.2020. Her statement under Section 161 Cr.P.C. was recorded wherein she had levelled allegations with regard to commission of rape against the co-accused namely Amarjeet s/o Rishi Pal. The allegations against the petitioner are only with regard to outraging her modesty and furthermore, no role has been assigned to the petitioner in her kidnapping. During the course of trial, the statements of the victim as well as her parents have been recorded. In her statement recorded in the trial Court, the victim has given an improved version with regard to commission of rape against the petitioner as well as co-accused.

Learned State counsel has opposed the bail application on the score that it is a case of gang rape and there are serious allegations levelled against the petitioner. Out of 16, 11 witnesses have been examined.

The initial statement of the victim recorded during the course of investigation indicates the allegations of outraging the modesty against the petitioner. The allegations with regard to commission of forcible sexual intercourse have been levelled against the co-accused. Although during the course of trial, the victim has levelled allegations of commission of rape against the petitioner but the genuineness of such statement which may be an improved version is to be looked into and adjudicated by the trial Court. The custody certificate indicates that the petitioner is in custody for a period of 2 years and 14 days and is not involved in any other case. The victim and her parents have been examined and as such, it cannot be construed that the petitioner can in any manner be in a position to influence or win over the witnesses.

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.

(VIVEK PURI)
JUDGE

29.08.2022

Janki

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