

217 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-26660-2022
Date of Decision: 25.07.2022

NITIN ... PETITIONER
VS.
STATE OF HARYANA .. RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present : Mr. Kushagra Mahajan, Advocate, for the petitioner.

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

VIVEK PURI, J.(ORAL)

The petitioner is seeking anticipatory bail in case bearing FIR No.84 dated 19.05.2022 under Sections 341/363/366-A IPC and Section 8 of POCSO Act registered at Police Station Jagadhari Sadar, District Yamuna Nagar.

Status report by way of affidavit of Subhash Chand, Deputy Superintendent of Police, Yamuna Nagar, has been placed on record.

Briefly, the aforesaid FIR has been registered on the allegations that the victim is aged about 16 years and 6 months. On 18.05.2022, she was kidnapped by some persons in a car and was subjected to sexual assault.

Learned counsel for the petitioner contends that the petitioner has been falsely implicated in the instant case. The victim, in her statement under Section 164 Cr.P.C. has not attributed any allegation against the petitioner. The petitioner and the victim were in relationship and false allegations have been imputed against the petitioner. Besides, there is delay in registration of the FIR.

Learned State counsel has opposed the bail application on the score that besides the petitioner, there are four other persons who have been

arraigned as accused and they have been arrested. The allegations with regard to commission of sexual assault have been attributed to the petitioner. The petitioner alongwith the co-accused had given push to the victim and forcibly took her in the car. The date of birth of the victim as reflected in the birth certificate is 24/08/2005 and as such, she was aged about 16 years and 6 months at the time of occurrence. The petitioner had committed sexual assault and threatened to kill her in the event she refused to solemnize marriage with him. The petitioner is the mastermind of the entire offence, which has been committed in criminal conspiracy with co-accused.

The case of the prosecution cannot be doubted at this stage on the ground of delay of one day in lodging the FIR which aspect has to be seen during the course of trial. Moreover, the reply placed on record on behalf of the respondent-State is indicative of the fact that the petitioner had played an active role in throwing the victim in the car and kidnapping her. There are also specific and categoric allegations against the petitioner to the effect that he had committed sexual assault upon the victim. The victim is stated to be aged about 16 years and 6 months and in such circumstances, the plea of relationship, as put forth by the petitioner, does not in any manner come to his rescue. The matter requires thorough probe and investigation and no exceptional circumstances are made out to extend the concession of pre-arrest bail to the petitioner.

Dismissed.

25.07.2022
smriti

(VIVEK PURI)
JUDGE

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