

219 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-28404-2022 (O&M)

Date of Decision: 06.09.2022

DINESH

... PETITIONER

VS.

STATE OF HARYANA

.. RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present : Mr. Gaurav Tyagi, Advocate, for the petitioner.

Mr. Bhupender Singh, DAG, Haryana.

VIVEK PURI, J.(ORAL)

The petitioner is seeking regular bail in the case bearing FIR No.0198 dated 23.04.2020 under Sections 363/376 (D) (A)/506 IPC and Section 3 of SC & ST Act, registered at Police Station Ganaur, District Sonapat.

Custody certificate has been placed on record.

Briefly, the allegations as put forth in the FIR are to the effect that the victim alongwith her five years old sister had gone to medical store for purchasing the medicine near G.S.S.S. School, Ganaur. The petitioner, who is a student of 12th Class in that school, alongwith Dharambir (co-accused) abducted her. She alongwith the sister were forcibly made to sit in the car. Dharambir (co-accused) took the sister out of the car and the petitioner had committed rape upon the victim. Thereafter, the victim and her sister were dropped near the school and threatened not to disclose the incident. It has been further alleged that the petitioner alongwith Dharambir had committed rape upon her.

Learned counsel for the petitioner contends that earlier the proceedings against the petitioner were initiated in the Juvenile Justice

Board and subsequently, the same have been transferred to the Court of Special Judge, Sonapat. The victim and other material witnesses have not supported the case in the trial which was proceeding against Dharambir at the earlier instance in the Court of learned Special Judge. Furthermore, report of DNA analysis does not implicate the petitioner. The petitioner is in custody for a period of 02 years, 04 months and 12 days and not involved in any other case.

Learned State counsel, on the instructions of L/ASI Manisha, has not assailed the aforesaid factual aspects but has opposed the bail application on the score that the age of the victim is 15 years and no witness has been examined during the course of trial against the petitioner.

It may be mentioned here that the victim and other material witnesses have not supported the case of prosecution during the course of trial which was proceeding against Dharambir at the earlier instance. Dharambir (co-accused) is stated to be on bail. The report of DNA analysis does not implicate the petitioner. The petitioner is in custody for a period of 02 years, 04 months and 12 days and not involved in any other case.

Keeping in view the period of incarceration and other circumstances emerging in the case, 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//Duty Magistrate.

06.09.2022

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(VIVEK PURI)**JUDGE**

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No