

SANJAY

... PETITIONER

V/S

STATE OF HARYANA

... RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. Raman Chawla, Advocate for the petitioner.

Mr. Zorawar Singh Chauhan, DAG Haryana.

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VIVEK PURI, J. (ORAL)

Status report by way of affidavit of Rohtash Singh, Deputy Superintendent of Police, Barwala and custody certificate has been taken on record. Heard and record perused.

The petitioner is seeking regular bail in case bearing FIR No. 410 dated 04.10.2021 under Sections 354A, 354, 451 IPC and Section 12 of Protection of Children from Sexual Offences Act and Section 3(1)(x) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, registered at Police Station Agroha, District Hisar.

Briefly, the allegations against the petitioner are to the effect that on 03.10.2021, he had climbed the roof of the house of the complainant and committed sexual assault upon the victim, who is aged about 16 years.

Learned counsel for the petitioner contends that the occurrence allegedly, took place on 03.10.2021 but the statement of the victim under under Section 164 Cr.P.C. has been recorded after a delay of about 18 days on 21.10.2021. The investigation of the case is complete and the case is

pending for the prosecution evidence in the trial Court. However, despite repeated adjournments, the victim and her father are not putting appearance before the trial Court.

Learned State counsel, on instructions of SI Jagdish Ram, has submitted that the charge was framed on 06.04.2022. Thereafter the case was adjourned for prosecution evidence on 12.05.2022. On that date, the father of the victim was present and he assured that the victim shall be produced on the next date of hearing i.e. 21.07.2022. However, on that date, neither the victim nor her father put appearance in the trial Court for getting the statements recorded.

In the instant case the charge is stated to have been framed under Section 354, 354A, 451 IPC and Section 12 of Protection of Children from Sexual Offences Act and Section 3(1)(x) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act. The petitioner is stated to be in custody for a period of 9 months and is not involved in any other case. The complainant and the victim are not being examined on account of the non-appearance of the victim in the trial Court. This cannot be termed to be a circumstance to further incarcerate the petitioner particularly, because the bail application of the petitioner was dismissed by the learned trial Court primarily by observing that the material witnesses are to be examined who are scheduled to appear on 21.07.2022. The conclusion of trial is likely to take some time and no fruitful purpose would be served by detaining the petitioner in further custody.

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

25.07.2022

Janki

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