

CRM-M-27853-2022

Date of decision: 16.08.2022

SUMIT @ KALI

...PETITIONER

VERSUS

STATE OF HARYANA

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. Raj Kumar Gupta, Advocate
for the petitioner.

Mr. Vikas Bhardwaj, AAG, Haryana.

VIVEK PURI, J. (ORAL)

Mr. Rakesh Dhiman, Advocate has put in appearance on behalf of the complainant and filed Vakalatnama, which is taken on record.

Custody certificate of the petitioner has been circulated today and the same is taken on record.

Sumit @ Kali-petitioner is seeking regular bail in the case bearing FIR No.31 dated 17.01.2022 under Sections 363/366-A IPC (Sections 506/34 IPC and Sections 6/17 of POCSO Act added later on), registered at Police Station Adarsh Nagar, Ballabgarh, Faridabad.

Briefly, the FIR has been registered on the basis of the statement of the father of the victim alleging that the victim, who is aged about 17 years, has been kidnapped by her brother-in-law, Deepak along with his relatives and friend i.e. the petitioner.

Learned counsel for the petitioner contends that the allegations in the FIR are improbable as the victim could not have been allured to solemnize marriage with her brother-in-law. Furthermore, there is a delay of 27 days in lodging the FIR. Moreover, the allegations with regard to the penetrative sexual assault and the threats have been primarily attributed to the co-accused, Deepak.

The allegations against the petitioner are to the effect that he along with Deepak and Prashant, the brother of Deepak had taken the victim to Delhi. The substantial allegations against the petitioner and Prashant are same and Prashant has been found to be innocent during the course of investigation. The only additional allegation against the petitioner is to the effect that he visited the flat in Delhi wherein the victim was confined with Deepak on two occasions and delivered some clothes and essential goods. The petitioner is in custody for a period of 04 months and 24 days and is not involved in any other case. Moreover, the investigation of the case is complete and the challan has been presented in the Court.

The bail application has been mainly resisted by the learned State counsel and the counsel for the complainant on the score that the allegations against the petitioner are to the effect that he had abetted and facilitated the commission of penetrative sexual assault upon the victim by his co-accused

It is significant to note that the allegations with regard to commission of penetrative sexual assault and the threats having been hurled to the victim have been levelled against Deepak, the co-accused. The similarly placed co-accused Prashant, who is brother of Deepak has been found to be innocent during the course of investigation. The additional allegation against the petitioner is to the effect that he visited the flat in Delhi wherein the victim was kept with Deepak on two occasions to deliver the clothes and essential goods. There is no allegation with regard to outraging the modesty or commission of rape attributed to the petitioner. Even, the petitioner is not related to Deepak-co-accused. The investigation of the case is complete, challan has been presented and the conclusion of the trial is likely to take some time. No fruitful purpose will be served by detaining the petitioner in further custody. As such, sufficient

petitioner.

Without expressing any opinion on the merits of the case, the instant petition is allowed. The petitioner is ordered to be released on bail on his furnishing requisite bail bonds to the satisfaction of the learned trial Court/Duty Magistrate concerned.

The petition is allowed accordingly.

16.08.2022
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(VIVEK PURI)
JUDGE

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

