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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-31389-2022

Date of Decision: 15.11.2022

SUNNY

... PETITIONER

V/S

STATE OF HARYANA

... RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. Mayank Gupta, Advocate for the petitioner.
Mr. Karan Garg, AAG Haryana.

* * *

VIVEK PURI, J. (ORAL)

The petitioner is seeking regular bail in case bearing FIR No.390 dated 29.07.2021 under Sections 363, 366, 376(3), 506 IPC and Section 4 of Protection of Children from Sexual Offences Act, registered at Police Station City Jind.

Custody certificate has been taken on record.

Learned counsel for the petitioner contends that in her statement recorded under Section 164 Cr.P.C., the victim has not attributed any allegation of sexual assault much less penetrative sexual assault against the petitioner. She had specifically stated that nothing wrong was done with her. Even during the course of trial, the victim has not attributed allegation of commission of sexual assault or penetrative sexual assault upon her. The victim has not supported the prosecution version with regard to the allegation of commission of rape. The report of DNA analysis has been received and it does not matches with the petitioner.

Learned State counsel has not disputed the aforesaid factual aspect and has stated that in her statement recorded under Section 161 Cr.P.C., the victim has attributed allegations of rape against the petitioner and even semen was detected as per the report of chemical examiner. Moreover, 9 out of 19 witnesses have been examined so far.

It is significant to note that the victim in her statement recorded under Section 164 Cr.P.C. as well as during the course of trial has not attributed allegations of sexual assault or penetrative sexual assault against the petitioner. Even the report of DNA analysis does not implicate the petitioner. So far only 9 out of 19 witnesses have been examined. The petitioner is in custody for a period of 1 year, 1 month and 28 days and is not involved in any other case. The conclusion of trial is likely to take some more 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

15.11.2022
Janki

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No