

CRM-M-29130-2022

Date of Decision: 19.09.2022

MOHIT

... PETITIONER

V/S

STATE OF HARYANA AND ANOTHER

... RESPONDENTS

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. R.K.Moudgil, Advocate for the petitioner.
Mr. Zorawar Singh Chauhan, DAG Haryana.
* * *

VIVEK PURI, J. (ORAL)

The petitioner is seeking regular bail in case bearing FIR No. 410 dated 30.05.2021 under Sections 148, 149, 323, 324, 452, 506 IPC and Section 6 of Protection of Children from Sexual Offences Act registered at Police Station City Karnal, Haryana.

Custody certificate has been placed on record.

Briefly, the FIR has been registered on the basis of the application submitted by the father of the victim alleging that the petitioner, who is residing in the neighborhood had been teasing the victim. On 29.05.2021, the petitioner along with his brothers Akshay @ Savan, Rohit, uncles Sonu, Parmod and father Rustam along with 5-6 other persons had inflicted injuries on the person of the complainant and his wife. On return from the hospital after medical examination and treatment, the victim informed that on 22.05.2021, the petitioner had committed rape upon her after entering in the house and had also threatened to kill her and family members in the event she narrated the incident to anyone.

Learned counsel for the petitioner contends that Akshay @

Savan has been declared to be juvenile. Parmod and Rustam, co-accused have been found to be innocent during the course of investigation. All the other accused except the petitioner are on bail. Furthermore, a quarrel had taken place between the two families on 29.05.2021 and to aggravate the allegations against the petitioner, false imputation with regard to commission of penetrative sexual assault has been levelled which allegedly took place about a week prior to the occurrence. Furthermore, a cross-FIR has also been registered at the instance of Rohit against the parental family of the victim. Even as per the report of chemical examiner, no spermatozoa has been detected.

Learned State counsel, on instructions of L/ASI Meena, submits that the statement of the victim has been recorded during the course of trial and she has supported the prosecution version. So far 3, out of 13 witnesses have been examined and the remaining witnesses are official witnesses only. Furthermore, spermatozoa could not be detected in the report of chemical examiner as the incident was reported after a period of a week from the occurrence when penetrative sexual assault was committed.

The custody certificate indicates that the petitioner is in custody for a period of 1 year, 3 months and 17 days and not involved in any other case. The victim has been examined during the course of trial. So far only 3, out of 13 witnesses have been examined. The remaining witnesses are stated to be official witnesses. In such circumstances, it cannot be said that the petitioner can be in a position to win over or influence the witnesses. Moreover, the co-accused are already on bail. A quarrel had taken place between the two families on 29.05.2021 and the allegations with regard to commission of penetrative sexual assault have been levelled with regard to

the incident which took place on 22.05.2021 i.e. a week prior to the occurrence dated 29.05.2021. Moreover, no spermatozoa has been detected in the report of the chemical examiner. 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.

19.09.2022

Janki

**(VIVEK PURI)
JUDGE**

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