

CRM-M-34193-2021

Date of decision: 18.04.2022

AJAY

...PETITIONER

VERSUS

STATE OF HARYANA

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. Ravi Malik, Advocate
for the petitioner.

Mr. Zorawar Singh Chauhan, DAG, Haryana.

VIVEK PURI, J. (ORAL)

Short report by way of affidavit of Rohtash Singh, HPS, Dy. Superintendent of Police, Barwala, District Hisar and custody certificate of the petitioner on behalf of the respondent-State have been filed and the same are taken on record.

Ajay-petitioner is seeking regular bail in the case bearing FIR No. 71 dated 10.02.2021 under Sections 328/34/342/354-A/354-C/365/376-D/384 IPC, 1860 and Section 6 of POCSO Act, registered at Police Station Barwala, District Hisar.

Briefly, the FIR has been registered on the basis of the statement of the father of the victim alleging that the victim is aged about 17 years, a student of private school and a kabaddi player. Durgesh, the co-accused used to harass, tease and molest the victim. He had taken the photographs of the victim while she was changing the clothes and on the threat of making the photographs viral, he

victim on a motorcycle by pressurizing her and confined her in a room. She was molested by him after administering some intoxicant substance in tea, the victim was rescued from the clutches of Durgesh, the co-accused and his friends.

Learned counsel for the petitioner contends that the petitioner is in custody since 12.02.2021 and no allegation of commission of rape has been levelled against him. The petitioner has neither been named by the complainant nor the victim in their statements.

On the contrary, the bail application has been resisted on the score that the petitioner was called by Durgesh, the co-accused when he had kidnapped the victim. The petitioner has not been named in the FIR and has been nominated on the basis of the disclosure statement of Durgesh, the co-accused. The disclosure statement of the petitioner has also been recorded and in both the statements, it had emerged that the petitioner had also committed rape with the victim.

The perusal of the status report is indicative of the fact that two of the co-accused are juveniles and are stated to have been released on bail. In the statement under Section 164 Cr.P.C of the victim, she has specifically stated that Durgesh, the co-accused had made relations and committed rape upon her. The friends were standing outside and not committed any wrong act with her.

Although, in the disclosure statement of Durgesh, the co-accused and the petitioner, it has been mentioned that the petitioner had also committed rape upon the victim but significantly, such version does not find mention in the statement of the victim. The conclusion of the trial is likely to take sometime. As such, no fruitful purpose will be served by detaining the petitioner in further custody and sufficient mitigating circumstances are made out to extend the concession of the bail to the 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.

18.04.2022
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(VIVEK PURI)
JUDGE

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