

215 IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

CRM-M-32938-2022  
Date of Decision: 05.09.2022

SUNNY ... PETITIONER  
VS.  
STATE OF HARYANA .. RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present : Mr. Ravinder Chaudhary, Advocate  
for the petitioner.

Mr. Bhupender Singh, DAG, Haryana.

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**VIVEK PURI, J.(ORAL)**

The petitioner is seeking regular bail in the case bearing FIR No.186 dated 04.03.2020 under Sections 346/343/34 IPC and Section 6 of POCSO Act registered at Police Station Gurugram Sadar, District Gurugram.

Custody certificate and reply by way of affidavit of Sanjeev Kumar, Assistant Commissioner of Police, Sadar, Gurugram have been placed on record.

Learned counsel for the petitioner contends that the FIR was lodged on the basis of the statement of the father of the victim, who is stated to be about 16 years, alleging that the victim went missing from the house 03.03.2020. Subsequently, the victim was recovered from the guest house Jharsa. In her statement under Section 164 Cr.P.C., the victim has alleged that Sonu, co-accused, had taken her to the guest house, where the petitioner and others forcibly committed sexual intercourse with her. All the other persons except the petitioner and Sonu, co-accused, have been found to be innocent. Sonu has been declared juvenile and he has been release on bail. The petitioner is only working as employee in the guest house and has been falsely implicated being on friendly terms with Sonu. Moreover, the statement of the victim and complainant has been recorded. The charge was framed as back as on 25.06.2022 and only four witnesses have been examined so far. The petitioner is in custody for a period of 02 years, 05 months and 27 days and not involved in any other case.

Learned State counsel has resisted the bail application on the score that the age of the victim was 14 years as borne out from the school record. Moreover, she has levelled categoric allegation of commission of penetrative sexual assault upon the petitioner in her statement under Section 164 Cr.P.C. and also while appearing in the witness box. Even the report of DNA analysis has not yet been received.

It has not been disputed that the charge was framed as back as on 25.06.2022 and out of 29, only 04 witnesses have been examined so far. Sonu, who has been declared as juvenile, is on bail. The petitioner is in custody for a period of 02 years, 05 months and 27 days. Merely, because the report of DNA analysis has not been received despite the lapse for a period of about 2½ years from the registration of the FIR may not be an appropriate circumstance to decline the bail keeping in view the period of incarceration. The victim and her father have already been examined during the course of trial and as such, it cannot be said that petitioner, in any manner, can make an attempt to win over or influence the witnesses. So far only 04 out of 29 witnesses have been examined and conclusion of trial is likely to take some time.

Keeping in view the period of incarceration and other circumstances emerging in the case, sufficient grounds are made out to extend the concession of bail to the petitioner. Accordingly, without making any observation on the merits of the case, the present petition is allowed and petitioner is ordered to be released on bail, subject to his furnishing bail/surety bonds to the satisfaction of concerned trial Court/Chief Judicial Magistrate//Duty Magistrate.

**05.09.2022**  
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**(VIVEK PURI)**  
**JUDGE**

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|---------------------------|----------|
| Whether speaking/reasoned | : Yes/No |
| Whether Reportable        | : Yes/No |