

**210 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRM-M-37043-2021

Date of Decision: 01.08.2022

VIVEK

... PETITIONER

VS.

STATE OF HARYANA

.. RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present : Mr. G.S.Sandhu, Advocate, for the petitioner.

Mr. Zorawar Singh Chauhan, Deputy Advocate General, Haryana.

Mr. C.S.Singh, Advocate for the complainant.

VIVEK PURI, J.(ORAL)

On 08.09.2021, the following order was passed:-

“Learned counsel for the petitioner would contend that the statement under Section 164 Cr. P.C., had been recorded by the prosecutrix in which there were no allegations of an offence of rape having been committed upon her. After the recording of the statement on 22.08.2020 an application was moved before the JMIC on 24.09.2020 seeking to have a second statement recorded, which application was dismissed. After inordinate delay of another four months, third application was filed for recording of her statement afresh on which basis a Special Investigation Team (SIT) has been constituted. Learned counsel for the petitioner would submit that once an application for recording the statement under Section 164 Cr. P.C. was dismissed, there was no ground for constitution of the said SIT. However, he is ready to join the investigation under the said FIR.

Notice of motion.

At this stage, Ms. Mahima Yashpal, DAG, Haryana, appearing through the medium of video conferencing accepts notice on behalf of respondent-State.

Learned State counsel, on instructions from SI Vijay Kumar, would submit that the FSL report is negative.

The petitioner is directed to join the investigation within a period of one week and on doing so, in the event of arrest the petitioners be released on interim bail to the satisfaction of Arresting/Investigating Officer. However, the petitioner shall

continue to join the investigation as and when called upon to do so and shall abide by the conditions incorporated under Section 438(2) Cr.P.C.

Adjourned to 21.02.2022.”

Learned counsel for the petitioner contends that in pursuance of interim directions issued by this Court, the petitioner has joined the investigation. It has been further stated that initially, the FIR was registered on the basis of the statement of mother of the victim, wherein, there is no allegation with regard to commission of penetrative sexual assault. Even, in her statement under Section 164 Cr.P.C., the victim had not levelled any allegation with regard to penetrative sexual assault. The said allegations have been levelled at a subsequent stage as an improved version.

Learned State counsel, on instructions from ASI Sushma, has stated that the petitioner has joined the investigation and his custodial interrogation is not required. He further contend that even, the report of FSL is negative.

Keeping in view the entire circumstances, sufficient grounds are made out to extend the concession of pre-arrest bail to the petitioner. Accordingly, order dated 08.09.2021, vide which the petitioner has been granted interim bail, is made absolute.

Petition is allowed.

01.08.2022
smriti

(VIVEK PURI)
JUDGE

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