

243

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-38258-2022 (O&M)

Date of Decision: 13.12.2022

RAVINDER

... PETITIONER

V/S

STATE OF HARYANA

... RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. Sandeep Kumar Gahlawat, Advocate for the petitioner.

Mr. Dhruv Sihag, AAG Haryana.

* * *

VIVEK PURI, J. (ORAL)

CRM-48307-2022

This is an application for placing on record copy of the statement of PW-1 and PW-2 as Annexures P-12 and P-13.

The same be taken on record, subject to all just exceptions.

Registry is directed to tag the same at the appropriate place.

Disposed of.

Main case

The petitioner is seeking regular bail in case bearing FIR No.78 dated 16.03.2022 under Sections 376, 376(2)(n) IPC, registered at Police Station Civil Lines, District Rohtak.

Custody certificate has been taken on record.

Briefly, the FIR has been registered on the basis of the statement of the prosecutrix alleging that the petitioner had taken her to Symphony Hotel on the pretext of getting some work done with regard to pension of her mother and committed wrong act of rape with her.

Learned counsel for the petitioner contends that in her statement recorded under Section 164 Cr.P.C. on 16.03.2022, the prosecutrix had submitted that she had gone with the petitioner to the Hotel for consuming food and has not attributed any allegation of rape. Even the father of the petitioner had submitted a similar application in the statement recorded under Section 161 Cr.P.C. The prosecutrix initially refused to get herself medico-legally examined on 16.03.2022. Subsequently, she moved an application to the Officer-in-charge, Police Station Civil Lines, Rohtak with a request for initiating action against the petitioner for having committed the offence under Section 376 IPC. Thereafter, another statement under Section 164 Cr.P.C. was recorded wherein she imputed allegations of commission of rape against the petitioner. The statement of the prosecutrix has been recorded during the course of trial. Her medical examination was subsequently conducted on 26.03.2022 and no spermatozoa have been detected. The petitioner is in custody for a period of 8 months and 16 days and is not involved in any other case.

Learned State counsel has opposed the bail application on the score that the prosecutrix during the course of her statement in the trial Court has supported the version of the prosecution and so far only 2 out of 20 witnesses have been examined.

It may be mentioned here that the prosecutrix has given contradictory version during the different stages of investigation. She is aged about 24 years. The medical examination has been conducted after a gap of about 11 days from the date of occurrence. Initially, she had refused to get herself medico-legally examined. There is nothing to indicate that spermatozoa have been detected during the course of medico-legal

examination. The statement of the prosecutrix during the course of trial has been recorded. As such, it cannot be said that the petitioner can in any manner win over or influence the prosecutrix. The petitioner is in custody for a period of 8 months and 16 days and not involved in any other case. So far only 2 out of 20 witnesses have been examined. 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.

13.12.2022

Janki

(VIVEK PURI)
JUDGE

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