

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(210)

CRM-M-41519-2021
Date of Decision: 27.10.2022

Krishan Kumar

--Petitioner

Versus

State of Haryana

--Respondent

CORAM:- HON'BLE MR. JUSTICE RAJESH BHARDWAJ.

Present:- Mr. Virender Soni, Advocate for the petitioner.

Mr. B.S. Virk, D.A.G., Haryana.

RAJESH BHARDWAJ.J (Oral)

The present petition has been filed under Section 439 Cr.P.C seeking the benefit of regular bail to the petitioner in case FIR No.334 dated 31.8.2020 under sections 328, 376(2)(N), 452, 506 IPC, section 4 of POCSO Act and section 67(B) of I.T Act, registered at Police Station, Sadar Rohtak, District Rohtak.

As per factual matrix, a complaint was lodged by the mother of the prosecutrix, wherein it was alleged that she and her husband were doing the labour work and they had three children. Her elder daughter, who was 16 years of age started remaining upset from the last many days. On asking she revealed to her mother that Krishan Kumar i.e. the present petitioner had been raping her for the last one year. He threatened her to be killed in case she disclosed anything regarding the same. A request was made to take legal action against the culprit.

The FIR in question was lodged and investigation commenced.

The petitioner was arrested on 2.9.2020. He approached the court of learned

Addl. Sessions Judge, Rohtak for grant of bail, however, after hearing the parties, the same was declined vide order dated 6.9.2021. Aggrieved by the same petitioner has approached this court for grant of bail.

Learned counsel for the petitioner vehemently contends that the petitioner has been falsely implicated in the present case. He submits that both prosecutrix and petitioner were in consensual relationship, however, parents of the victim were opposing this relationship and hence the present FIR was lodged. He submits that petitioner is a young boy of 20 years and has no criminal antecedents. He is behind bars for the last more than two years. He further submits that majority of the witnesses have been examined by the prosecution. It is submitted that though complainant and prosecutrix have supported the case of prosecution, however, a careful perusal of their testimonies would reveal that the same are full of material contradictions. He submits that as all the material witnesses already stand examined, petitioner is not in a position to influence them.

On the other hand, learned State counsel submits that there are specific allegations against the petitioner. He submits that prosecutrix in the present case is less than 18 years of age and even if she was a consenting party, the same has no legal sanctity in the eyes of law. It is submitted that out of total 22 prosecution witnesses, 12 already stand examined including the complainant and prosecutrix, who have duly supported the case of prosecution. He further submits that as per information provided to him petitioner is not involved in any other case.

I have heard learned counsel for the parties at length and have gone through the records carefully.

Admittedly, petitioner is behind bars since 2.9.2020. He is a young boy, who is at the threshold of his life. As submitted by learned State counsel out of the total 22 prosecution witnesses, 12 already stand examined including the prosecutrix and complainant. Therefore petitioner is not in a position to influence the material witnesses. There is nothing on record to show that petitioner has any criminal antecedents. The veracity of the allegations levelled against the petitioner would be assessed by the Trial Court only upon conclusion of the trial. This court would refrain itself from commenting on the merits of the case, as the allegations and counter allegations would be assessed only after evaluation of the complete evidence to be led by both the sides before the Trial Court. The trial would take sufficiently long time in its conclusion.

In the totality of facts and circumstances and without making any observation on merits, present petition is allowed. Petitioner be enlarged on bail on his furnishing bail/surety bonds subject to the satisfaction of Trial Court/Duty Magistrate, concerned. Nothing stated herein shall be treated as an expression on the merits of the case.

(RAJESH BHARDWAJ)
JUDGE

27.10.2022

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