

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(220)

CRM-M-45554-2021(O&M)
Date of Decision: 17.08.2022

Hasan Mohammad

--Petitioner

Versus

State of Haryana

--Respondent

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

Present:- Mr. S.K. Panwar, Advocate for the petitioner.

Mr. Neeraj Poswal, A.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.65 dated 17.2.2021 under sections 147, 149, 342, 354-B, 506 I.P.C (later on added sections 452, 363 IPC and section 10 of POCSO Act), registered at Police Station, Ferozepur Jhirka, District Nuh.

As per factual matrix, the FIR in question was lodged by the complainant, wherein it was alleged that on 25.11.2020 brother of the complainant Imran had taken away girl of village and they solemnized marriage. They had also approached this High Court for protection. The family members of the girl came to their home and threatened the family of the complainant with dire consequences for the act committed by their son with their daughter. At about 9.30 AM eight accused who were named in consultation with each other came to their house when the complainant was alone at home. They pulled her out of the house and molested her. Accused Hasan Mohd., Soyab and Deenu locked the room from outside and

stood outside the room. Complainant informed her father telephonically and thereafter the present FIR was lodged to take legal action against the culprits.

Investigation commenced and the present petitioner was arrested on 18.7.2021. He approached learned Addl. Sessions Judge, Nuh for grant of bail, however, after hearing the parties, the same was declined vide order dated 1.10.2021. Aggrieved by the same petitioner has approached this court for grant of bail.

Statement of the victim/complainant was recorded under section 164 Cr.P.C and she was medically examined.

Learned counsel for the petitioner vehemently contends that petitioner has been falsely implicated in the present case. He submits that the present FIR is a counter blast to FIR No.502 dated 28.11.2020 which has been registered against the brother of the alleged victim/complainant. It is submitted that in all there were 8 accused out of which 6 were found innocent during investigation and challan was presented only qua petitioner and co-accused Deenu. Counsel submits that as per the allegations the role attributed to the petitioner and co-accused Deenu is the same, however, Deenu has been granted bail by the learned Addl. Sessions Judge, Nuh simply on the ground that he was elder in age. He submits that co-accused Deenu was attributed the same role and hence the petitioner also deserves to be granted bail. Counsel further submits that after completion of investigation challan has been presented and even charges have been framed. Even the complainant already stands examined and as the material witnesses stand examined there is no apprehension of the petitioner

influencing the prosecution witnesses.

On the other hand, learned State counsel submits that there are specific allegations against the petitioner, however, he submits that out of 13 prosecution witnesses the complainant has been examined. He also admits that the similarly situated co-accused Deenu has been granted bail on the ground that he was 67 years of age. He submits that parties are already involved in case FIR No.502 dated 28.11.2020 which has been lodged by the petitioner against the complainant side. State counsel further submits that present petitioner is involved in one more case, however, he has been granted bail in that case.

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

Admittedly petitioner is behind bars since 18.7.2021. Out of the total 8 accused 6 were found innocent during investigation and challan was presented against petitioner and co-accused Deenu, who has already been granted bail by the learned Addl. Sessions Judge, Nuh. Complainant/victim already stands examined before the Trial Court and hence there is no apprehension of the petitioner of influencing the material witnesses of the case. 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 satisfaction of Trial Court/Duty Magistrate, concerned. Nothing stated herein shall be treated as an expression on the merits of the case.

As the main petition has been allowed, CRM-38830-2021 praying for grant of interim bail is dismissed.

(RAJESH BHARDWAJ)
JUDGE

17.08.2022

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