

CRM-M-42428-2022

Date of decision: 20.09.2022

VISHAL KUMAR

...PETITIONER

VERSUS

STATE OF HARYANA

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. S.S.Dinarpur, Advocate,
Mr. Shubham Verma, Advocate,
Mr. Sumit Gujjar, Advocate and
Mr. Arvind Singh, Advocate for the petitioner.

Mr. Karan Garg, AAG, Haryana.

VIVEK PURI, J. (ORAL)

Custody certificate of the petitioner has been circulated today and the same is taken on record.

Vishal Kumar-petitioner is seeking regular bail in the case bearing FIR No.14 dated 10.01.2022 under Sections 452/376/506/511 IPC and Sections 4/8/18 of Protection of Children from Sexual Offences Act, 2012, registered at Police Station Babain, District Kurukshetra.

Briefly, the FIR has been registered on the basis of the statement of the victim aged about 17 years alleging that on 19.01.2022 at about 06:00 PM, she was alone in her house. The petitioner gained forcible entry in the house of the victim and gagged her mouth and made an attempt to commit rape upon her. The petitioner had also committed sexual assault upon her.

Learned counsel for the petitioner contends that the bail application of the petitioner has been dismissed by the learned trial Court primarily on the score that the victim is yet to be examined and there was apprehension on the part of the prosecution that the petitioner shall threaten or induce the material witnesses in case released on bail. The victim has been examined during the course of trial on

The petitioner is in custody for a period of 08 months and 07 days and is not involved in any other case.

Learned State counsel has opposed the bail application on the score that there are serious allegations levelled against the petitioner with regard to sexual assault and attempt to commit penetrative sexual assault. So far only 04 out of 12 witnesses have been examined during the course of trial.

It is significant to note that during the course of statement of the victim in the trial Court, she has not stated with regard to attempt to commit rape. It will remain a debatable and moot point during the course of trial as to whether the offence under Sections 8 or 4 read with Section 18 of POCSO Act is made out. As the statement of the victim has been recorded during the course of trial, the apprehension on the part of the prosecution that the petitioner may threaten or make an attempt to win over the material witnesses stands dispelled. The petitioner is in custody for a period of 08 months and 07 days and not involved in any other case. The conclusion of trial is likely to take sometime. No fruitful purpose will 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.

Without expressing any opinion on the merits of the case, the instant petition is allowed. The petitioner is ordered to be released on bail on her furnishing requisite bail bonds to the satisfaction of the learned trial Court/Duty Magistrate concerned.

The petition is allowed accordingly.

20.09.2022
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(VIVEK PURI)
JUDGE

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