

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

1) CRM-M-47935-2021
Date of decision: 21.04.2022

MOHIT ...PETITIONER
VERSUS

STATE OF HARYANA ...RESPONDENT

2) CRM-M-48740-2021

SAURAB @ KAKE ...PETITIONER

VERSUS
STATE OF HARYANA ...RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. Rahul Makkar, Advocate
for the petitioner in CRM-M-47935-2021.

Mr. Ravinder Hooda, Advocate
for the petitioner in CRM-M-48740-2021.

Mr. Zorawar Singh Chauhan, DAG, Haryana.

VIVEK PURI, J. (ORAL)

Mohit and Saurab @ Kake-petitioners are seeking regular bail in the case bearing FIR No. 332 dated 24.08.2020 under Sections 120-B/328/365/395/397/451/506 IPC and Sections 6/8 of POCSO Act, 2012 and Section 3(2)(v) SC/ST Act and 25 of Arms Act, 1959 IPC, 1860 qua Mohit-petitioner and Section 25 of Arms Act, 1959, Sections 365/379-B/395/397 IPC, 1860 and Section 3(2)(va) of SC/ST Act, 1989 (later on added Sections 6/8 of POCSO Act, 2012 and Sections 120-B/328/451/506 IPC, 1860) (Section 379-B IPC has been deleted) qua Saurab @ Kake-petitioner, registered at Police Station Kalanaur, District Rohtak.

Briefly, the case has been registered on the basis of the statement of the complainant alleging that the marriage was solemnized on 24.08.2020 with

the victim. While they were returning to their house in a Safari vehicle, at about
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04:30 PM, when they reached near Mokhra turn, a boy signaled the vehicle to stop. Thereafter, he took out a pistol and came in front of the vehicle and the driver stopped the vehicle and found 06 more boys came at the spot. The driver was made to alight from the vehicle at gun point. The complainant tried to resist but he was also threatened with the pistol. The victim was kidnapped by the assailants. The brother-in-law of the complainant had recognized Mohit-petitioner and Sahil, co-accused at the spot.

Learned counsel for the petitioners contend that they are in custody for a period of about 01 year and 07 months. Sahil, Rohit, Vishal and Sudesh, co-accused have been released on bail. There is no allegation with regard to commission of rape levelled against Saurab @ Kake. The victim and her husband have stepped into the witness box during the course of trial and have not supported the prosecution version. The petitioners though involved in other cases are on bail except Mohit-petitioner in one of the cases under NDPS Act.

The bail applications have been resisted by the learned State counsel. It has been stated that in the supplementary statement, the victim has levelled allegation of commission of rape against Mohit-petitioner. Furthermore, the allegations against Saurab @ Kake-petitioner are to the effect that his car was used in commission of crime and he had dropped the co-accused at the place of occurrence.

It is significant to note that, during the course of trial, the statements of the victim and her husband were recorded and both of them have not supported the case of prosecution. The victim has denied the fact of kidnapping and commission of rape. Learned trial Court has primarily dismissed the application on the score that subsequently, supplementary challan has been presented against Manjit, co-accused and charge has been added against him. Now, the victim and

her husband are in the same position as they were earlier.

It may be mentioned here that even if the supplementary challan has been presented against the co-accused it can't be a circumstance to completely efface or wash out the statement of the victim and her husband which has been recorded at the earlier instance. Although, victim is stated to be less than 18 years of age but on a query by the Court, on instructions from SI Bhagat Singh, learned State counsel has not disputed the fact that there is no supporting report of chemical examiner or DNA analysis to substantiate the allegation of commission of penetrative sexual assault upon any of the petitioners. The conclusion of trial is likely to take sometime. As such, sufficient mitigating circumstances are made out to extend the concession of bail to the petitioners.

Without expressing any opinion on the merits of the case, the instant petitions are allowed. The petitioners are ordered to be released on bail on their furnishing requisite bail bonds to the satisfaction of the learned trial Court/Duty Magistrate concerned.

The petitions are allowed accordingly.

21.04.2022
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(VIVEK PURI)
JUDGE

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