

CRM-42861-2022 in/and
CRM-M-47904-2022 (O&M)
Date of Decision: 21.11.2022

AVTAR SINGH

... PETITIONER

V/S

STATE OF HARYANA

... RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. Ashish Handa, Advocate for the petitioner.
Mr. Gurbir Singh Dhillon, AAG Haryana.

* * *

VIVEK PURI, J. (ORAL)

CRM-42861-2022

This is an application for placing on record the copy of the order of Hon'ble the Supreme Court of India as Annexure P-9.

The same is allowed to be taken on record.

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. No.41 dated 21.7.2018 under Sections 328/342/506/376-D/120-B/370 IPC and Sections 3/4/5/5A/5B/5C/6/7/9 of Immoral Traffic (Prevention) Act, 1956 registered at Police Station Women, District Panchkula.

The FIR in question was lodged at the instance of the victim wherein it has been alleged that her husband is working as a labourer. On 15.7.2018, Sunil Kumar @ Sunny, co-accused, who was acquainted with the husband of the victim told him that he would provide some work to the victim at his farm house and that the victim would be required to do cleaning and kitchen work. He would be paying a sum of Rs. 12,000/- per

month to her. Sunil Kumar @ Sunny, co-accused further assured to arrange a job for the husband of the victim. The victim has alleged that she went to the farm house of Sunil Kumar @ Sunny where she was administered some drug and was raped while in a state of unconsciousness. When the victim regained consciousness, she asked the accused to call her husband but they did not call him and also snatched her mobile phone. It has been further alleged that Sunil Kumar @ Sunny used to bring 10-12 persons every day who were known to him and they used to commit rape upon the victim and she was kept in a locked room. It has been further alleged that on 18.07.2018, nine persons have committed rape upon her, out of which two were police officials but she could not identify all of them. The complainant somehow managed to escape from the farm house and came to Panchkula and narrated the entire incident to the police.

Learned counsel for the petitioner contends that the petitioner was working as a Caretaker in the farm house of Sunil Kumar @ Sunny, co-accused. The allegations of commission of rape have not been attributed against him. Even there is no allegation that the petitioner had in any manner allured the victim to visit the farm house. Moreover, all the accused including Sunil Kumar @ Sunny have been released on bail. Even the name of the petitioner has not been mentioned in the FIR. Out of 56 only 8 witnesses have been examined so far.

Learned State counsel, on instructions of Inspector Neha Chauhan, has not assailed the aforesaid factual aspects but has argued that there are serious allegations levelled against the petitioner.

It may be mentioned here that all the co-accused including

Sunil Kumar @ Sunny have been released on bail. Sunil Kumar @ Sunny,

co-accused has been granted bail by the Hon'ble Supreme Court of India in terms of the order dated 20.05.2022. The name of the petitioner has not been reflected in the FIR. The allegations of commission of rape have not been attributed against him. It is not the case of prosecution that the petitioner had in any manner allured the victim to visit the farm house where she was sexually abused. The custody certificate indicates that the petitioner is in custody for a period of 4 years, 3 months and 24 days and is not involved in any other case. It has been further stated that out of 56, 8 witnesses have been examined so far and the victim has been examined. It has also not been disputed that statement of the victim in the trial Court has been recorded. 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.

21.11.2022

Janki

(VIVEK PURI)
JUDGE

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