

CRM-M-51213-2022
Date of Decision: 11.11.2022

NIKHIL SABBARWAL

... PETITIONER

V/S

STATE OF HARYANA

... RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. S.S.Dinarpur, Advocate with
Mr. Arvind Singh, Advocate and Mr. Aman Godara, Advocate
for the petitioner.
Mr. Karan Garg, AAG Haryana.
Mr. Gorav Kathuria, Advocate for the complainant.
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VIVEK PURI, J. (ORAL)

The petitioner is seeking regular bail in case bearing FIR No. 156 dated 04.07.2022 under Sections 376, 506, 450 IPC, registered at Police Station Women, NIT Faridabad.

Learned counsel for the petitioner contends that the prosecutrix is the sister-in-law of the petitioner. The allegations of commission of rape have been attributed against the petitioner with regard to the incident which took place on 2/3rd January, 2021. The matter was never reported at any Forum. It has been specifically mentioned in the FIR that the parents along with the petitioner and his wife had sought pardon and the prosecutrix forgave the petitioner. Subsequently, on 02.07.2022, the petitioner had extended threats to the husband of the prosecutrix on his mobile phone. Consequently, the case has been registered after a delay of 1 year and 7 months. It has been further contended that the present case has been registered on account of financial dispute between the petitioner and his brother who is the husband of the prosecutrix. The petitioner is in custody for a period of 3 months and 20 days, the investigation of the case is complete and the challan has been presented in the Court.

The bail application has been opposed by the learned State counsel

and the counsel for the complainant on the score that on account of close

relationship, the matter was never reported to the Police at the earlier instance. Subsequently, on account of threats being extended by the petitioner to the husband of the prosecutrix, the FIR was got registered. Furthermore, the voice sample has been sent for analysis and the report has not yet been received.

Be that as it may, in the event the petitioner had extended any threats on 02.07.2022, it will amount to commission of offence under Section 506 IPC. The allegations of rape pertain to the period which is 1 year and 7 months prior to the occurrence. The effect of delay will be a debatable and moot point during the course of trial and it makes out a mitigating circumstance to extend the concession of bail to the petitioner. The investigation of the case is complete and the challan has been presented in the Court. Furthermore, the arrest of the petitioner was effected on 21.07.2022, his custodial interrogation is over and has been remanded to judicial custody. The conclusion of trial is likely to take some 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.

11.11.2022

Janki

(VIVEK PURI)
JUDGE

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