

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

CRM-M-58314-2022

Date of Decision: 20.12.2022

Noorul Islam

..... Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Ramnish Puri, Advocate, for the petitioner.

Mr. Brijesh Sharma, AAG, Haryana.

Rajesh Bhardwaj, J. (ORAL)

Prayer in the present petition is for the grant of regular bail to the petitioner in a case FIR No.105 dated 14.02.2022, registered under Sections 365, 376(3), 506 IPC, Section 6 of POCSO Act, 2012 and Section 84 of Juvenile Justice Act, 2015, at Police Station Kharkhoda, District Sonapat.

Succinctly facts of the case are that the complaint was lodged by the mother of the victim, wherein, it was alleged that her younger daughter (victim) was 16 years of age. On 14.02.2022 at about 11:00 a.m., her daughter went to the house of Noorul Islam i.e. the petitioner for studying Urdu, however, she did not return back. The complainant went to the house of Noorul Islam to enquire about her daughter, however, wife of Noorul Islam responded by saying that she was not aware about the same. The complainant kept on searching her daughter, then someone told her that his daughter is lying in unconscious condition at Matindu Chowk. She rushed to the place and sprinkled some water on her face. On regaining consciousness her daughter told that Noorul Islam forcibly took her in his

car and committed rape with her in the fields. Thereafter, he left her at Matindu Chowk and ran away from there. It was alleged that Noorul Islam forcibly raped her daughter. Request was made to take legal action against the culprit. On the basis of the complaint, a formal FIR was lodged and the investigation commenced. The prosecutrix was medically examined and her statement under Section 164 Cr.P.C. was recorded by the Magistrate. The petitioner was arrested on 15.02.2022. He approached the Court of learned Addl. Sessions Judge, Fast Track Court, Sonapat for grant of bail, who, after hearing the parties, declined the same vide order dated 07.10.2022. Aggrieved by the same, the petitioner has approached this Court by way of filing the present petition for grant of bail.

It has been vehemently contended by learned counsel for the petitioner that the petitioner has been falsely and frivolously implicated in this case. He has submitted that the petitioner is handicapped person and do not have his left arm and due to the same, the allegations made by the prosecutrix are false and frivolous on the face of it. He has submitted that the story put forward by the prosecution about the petitioner having kidnapped the victim in his car is totally unbelievable. He has submitted that after the occurrence the victim was medically examined and her samples were sent for DNA test. He submits that DNA report is received and same did not match with the petitioner. He submits that once DNA report is found negative, the ocular version of the prosecutrix is not medically corroborated and hence false implication of the petition is writ large. He has submitted that the petitioner is a respectable person of the society, who has been clandestinely framed by the prosecutrix and her mother. He submits that the petitioner has no criminal antecedents as he has never been involved in any

case prior to the present case. He also submits that the petitioner has earlier lodged FIR No.488 dated 11.08.2022, under Sections 365 and 511 IPC against the relative of the complainant and on account of the same, he was implicated in this case by the complainant. He has submitted that even otherwise, the prosecutrix and the complainant already stand examined and hence, the petitioner is not in a position to make undue influence on the prosecution witnesses and thus, in the facts and circumstances, he deserves to be granted bail.

On the other hand, learned State counsel has opposed the submissions made by learned counsel for the petitioner and has submitted that the prosecutrix has levelled specific allegations against the petitioner. He has submitted that in the statement recorded under Section 164 Cr.P.C. as well as in the statement recorded before the trial Court while being examined as prosecution witness, the prosecutrix has specifically supported the case of the prosecution. However, he candidly acknowledges that DNA report was found negative as the DNA sample did not match with the petitioner. He further submits that out of total 23 prosecution witnesses, 12 witnesses including the prosecutrix and the complainant stand examined. He further submits that as per instructions provided to him, the petitioner has no criminal antecedents.

Heard.

Evidently, the petitioner is behind bars since 15.02.2022. As submitted before this Court, the petitioner is a handicapped person. DNA report also found to be negative as the same did not match with the petitioner. Out of total 23 prosecution witnesses, 12 witnesses including the prosecutrix and the complainant stand examined, thus, the probability of the

petitioner making any undue influence on the prosecution witnesses does not survive any more. There is nothing on record to show that the petitioner has any criminal antecedents. The veracity of the allegations would be evaluated by the trial Court only after appreciation of the complete evidence led by both the parties. This Court would refrain itself from commenting anything on the merits of the case, however, considering the prayer for grant of bail to the petitioner, I am of the view that learned counsel for the petitioner has been able to make out a case for grant of regular bail to the petitioner. The trial would take sufficiently long time for its conclusion.

Accordingly, the present petition is allowed and the petitioner is ordered to be released on bail to the satisfaction of the concerned trial Court/Duty Magistrate.

Nothing said herein shall be treated as an expression of opinion on the merits of the case.

20.12.2022		(RAJESH BHARDWAJ)
sharmila		JUDGE
	Whether Speaking/Reasoned :	Yes/No
	Whether Reportable :	Yes/No