

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

Sr. No.: 211

Criminal Miscellaneous No.M-760 of 2023

Date of Decision: May 17, 2023

Manish

..... PETITIONER(S)

VERSUS

State of Union Territory, Chandigarh

..... RESPONDENT(S)

. . .

CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA

. . .

PRESENT: - Mr. Yugal Kumar Jamwal, Advocate for the petitioner.

Mr. Anupam Bansal, Addl. P.P., U.T. Chandigarh.

. . .

Tribhuvan Dahiya, J (Oral)

This is a petition for grant of regular bail to the petitioner in case FIR No.46 dated 30.03.2022, registered under Sections 376 (2) (n), 506 IPC, 1860 (Sections 342, 363, 366-A IPC added later on) and Section 6 of POCSO Act, 2012, at Police Station Mauli Jagran, Chandigarh.

2. As per allegations in the FIR, lodged on the basis of interaction report of the counsellor with the victim, she claimed to be in relationship with co-accused Pardeep, and had physical relations with him many times. He used to call her to his room, where she would go and the two would get physical, as she loved him. She missed her periods and realized that she was pregnant. On 04.12.2021, she suddenly had severe pain in her stomach. Her mother being illiterate asked her to call her aunty. She delivered the baby who was choked to death by her and her aunty, wrapped in a towel and thrown in the nearby drain/*nala*.

3. Learned counsel for the petitioner contends that the petitioner has nowhere been named by the victim, either in the FIR or in her

testimony before the trial Court dated 09.11.2022 (Annexure P-2). Rather,

she has testified that one Ali bhaiya threatened to kill her brothers and got the names of co-accused Pardeep and petitioner (mentioned therein as Anish) incorporated in the complaint made by her. She has failed to identify the petitioner in Court.

4. Learned Public Prosecutor, on instructions from ASI Kadam Singh, submits that five of the prosecution witnesses have already been examined, and trial is now fixed for 03.07.2023, for examining the remaining official witnesses. The petitioner is in custody since 09.04.2022, and no other case is pending against him.

5. The submissions made by learned counsel for the parties have been considered.

6. It is apparent that the petitioner has neither been named nor identified by the victim in the Court. Besides, material witnesses including the victim as well as the complainant, stand already examined. Only official witnesses remain to be examined, and there is no apprehension of the petitioner influencing them. He is in custody for last more than one year, and has no criminal antecedents. Therefore, no useful purpose will be served by confining him to custody any longer.

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

(Tribhuvan Dahiya)
Judge

May 17, 2023
payal

Whether Speaking/ Reasoned:
Whether Reportable:

Yes/ No
Yes/ No