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2023 : PHHC : 107154

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Date of Decision: 18.08.2023

1.

CRM-M-13528-2022

RAJESH @ RADHEY

... PETITIONER

V/S

STATE OF HARYANA

... RESPONDENT

2.

CRM-M-13153-2023

PARDEEP

... PETITIONER

V/S

STATE OF HARYANA

... RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. R.S.Rai, Senior Advocate with
Mr. Sushil Jain and Mr. Karan Pathak, Advocates
for the petitioner in CRM-M-13153-2023.

Mr. Pradeep Chhoker, Advocate
for the petitioner in CRM-M-13528-2022.

Mr. Ranvir Singh Arya, Addl. AG Haryana.
* * *

VIVEK PURI, J. (ORAL)

1. The petitioners are seeking regular bail in case bearing FIR No. 348 dated 12.06.2021 under Sections 8, 10 of Protection of Children from Sexual Offences Act and Sections 323, 352, 354, 506, 34 IPC (Sections 376DA and 354D IPC and Sections 12, 17 of Protection of Children from Sexual Offences Act added later on), registered at Police Station Samalkha, District Panipat.

2. Reply by way of affidavit of Narender Singh, Deputy Superintendent of Police, Samalkha, District Panipat in CRM-M-13528-

2022 and custody certificates have been taken on record.

3. Learned Senior counsel for petitioner-Pardeep and learned counsel for petitioner-Rajesh @ Radhey contend that initially the FIR was registered with regard to the allegations pertaining to the sexual harassment only. Subsequently, the statement of one of the victim was recorded and offence under Section 4 of Protection of Children from Sexual Offences Act has also been added. During the course of trial, the complainant and one of the daughters who is the victim have not supported the prosecution case. However, another daughter of the complainant has supported the prosecution case. She has also attributed allegations with regard to commission of rape in December 2019 i.e. about 1-1/2 years prior to the registration of the FIR. Such incident was never reported at any Forum at the earlier instance and even there is no medical evidence to substantiate such allegations. Pardeep @ Eka-petitioner is in custody for a period of 2 years, 1 month and 20 days and Rajesh @ Radhey-petitioner is in custody for a period of 1 year, 11 months and 29 days. Though, Pardeep, petitioner is involved in another case under Section 307 IPC but he has been granted bail and has not furnished the bail bonds. It has been further submitted that no obscene photographs or video have been recovered from the mobile phone of the any of the petitioners.

4. Learned State counsel, on instructions of HC Satpal, submits that one of the victims, who is less than 18 years of age has supported the prosecution version and furthermore, out of 14, 5 witnesses have been examined.

5. It is significant to note that the complainant and one of the victims have not supported the prosecution version. One of the victims

who has supported the case of the prosecution has levelled allegations with regard to penetrative sexual assault which took place about 1-1/2 years prior to the registration of the FIR. The complainant and both the victims have been examined during the course of trial and as such, it cannot be said that the petitioners can in any manner, influence or win over them. Out of 14 only 5 witnesses have been examined. Pardeep @ Eka-petitioner is in custody for a period of 2 years, 1 month and 20 days and Rajesh @ Radhey-petitioner is in custody for a period of 1 year, 11 months and 29 days. The conclusion of trial is likely to take some time and no fruitful purpose would be served by detaining the petitioners in further custody.

6. As such, sufficient mitigating circumstances are made out to extend the concession of bail to the petitioners. Therefore, without making any expression of opinion on the merits of the case, it is ordered that the petitioners be released on regular bail subject to their furnishing fresh bail bonds/surety bonds to the satisfaction of the concerned trial Court/Chief Judicial Magistrate/Duty Magistrate.

7. The petitions are allowed.

18.08.2023

Janki

(VIVEK PURI)
JUDGE

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