

2023:PHHC:154966

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

CRM-M-18542-2023

Date of Decision: 05.12.2023

SALEEM @ KALWA @ SALAMUDDIN ... PETITIONER
VS.
STATE OF HARYANA .. RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present : Mr. Anas Ahmed, Advocate
for the petitioner.

Mr. Ranvir Singh Arya, Additional Advocate General, Haryana.

VIVEK PURI, J.(ORAL)

1. The petitioner is seeking regular bail in the case bearing FIR No.223 dated 13.12.2020 under Sections 376-D/323/506 IPC registered at Police Station Bichhor District Nuh.
2. Custody certificate has been placed on record.
3. Learned counsel for the petitioner contends that prosecutrix is aged about 20/21 years at the time of occurrence. During the course of trial, she has not supported the prosecution version. It was specifically and categorically stated by the victim that the petitioner had not committed any wrong act with her.
4. On the last date of hearing, it was submitted that all the prosecution witnesses have been examined but the report of DNA analysis has not been received. It was further directed that in the event the report of DNA is not received, the claim of the petitioner for bail on the basis of material on record will be adjudicated.
5. However, learned State counsel has submitted that the report of DNA analysis has been received and it does not match with the petitioner.

He has opposed the bail application only on the score that all the prosecution witnesses have been examined.

6. It has been pointed out that statement of all the prosecution witnesses was recorded about 03 months back and the case is pending for prosecution evidence only awaiting the report of DNA analysis. Even the report of DNA analysis has been received which does not match with the petitioner. The petitioner is in custody for a period of 01 year, 08 months and 12 days. Though the petitioner is involved in another case under Section 174-A IPC but is on bail in that case. The petitioner has been acquitted in another case which was registered against him under Sections 279/336/427 IPC.

7. Keeping in view the fact that the prosecutrix has not impleaded the petitioner during the course of trial and the report of DNA analysis has been received and it does not match with the petitioner, sufficient grounds are made out to extend the concession of bail to the petitioner.

8. Accordingly, without making any observation on the merits of the case, the present petition is allowed and petitioner is ordered to be released on bail, subject to his furnishing bail/surety bonds to the satisfaction of concerned trial Court/Chief Judicial Magistrate/Duty Magistrate.

05.12.2023
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(VIVEK PURI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No