

CRM-M-22906-2023

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CRM-M-22906-2023

Date of Decision:-11.05.2023

Dharambir

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE ALOK JAIN

Present: Mr.Balraj Gujjar, Advocate
for the petitioner

Mr.Brijesh Sharma, AAG Haryana
Assisted by Ms.Amandeep Kaur, SI

ALOK JAIN, J. (Oral)

1. Prayer in the present petition is for grant of regular bail to the petitioner in case FIR No.288 dated 29.10.2022, under Sections 363 and 366 of IPC and Section 6 of the POCSO Act, 2012, registered at Police Station Bhondsi, Gururgram.
2. Learned counsel for the petitioner submits that the petitioner is a young boy of 21 years of age and was in consensual relationship with the prosecutrix who had alleged herself to be 19 years of age. More so, he relies upon the testimony of the prosecutrix wherein she categorically states that the petitioner did not commit any rape upon her at any point of time. Learned counsel for the petitioner further submits that the petitioner is in custody since 29.10.2022.
3. Learned State counsel has vehemently opposed the bail on the ground that as per the DNA report, the same is against the petitioner.

4. Per contra, learned counsel for the petitioner submits that it has come in the testimony of the prosecutrix that she had not given her undergarments to the doctor at the time of her medico legal examination and therefore the medical report received has lost its significance.

5. After hearing learned counsel for the parties and the fact that the petitioner is a young boy of 21 years old and is in custody since 29.10.2022 and the trial is likely to take long time, no useful purpose would be served by keeping the petitioner in custody.

6. Without commenting upon the merits, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail and surety bonds to the satisfaction of the trial Court/Duty Magistrate, concerned. He shall, however, be released on the following conditions:

- I. The petitioner shall declare his ordinary place of residence and the mobile number used by him.
- II. He will not switch off his mobile and in case of any technical glitch, he has to give an alternate number, which will be available in his absence.
- III. He will mark his presence before the SHO concerned, after every 15 days and in case the SHO refuses to mark his presence, he is permitted to make an application before the Illaqa Magistrate, concerned.
- IV. He will not leave the country without the prior permission of the Court, for which he will submit the copy of his passport also.

7. The petitioner shall abide by the terms and conditions as imposed in addition to Section 439 of Cr.P.C.

8. However, nothing stated above shall be construed as a final expression of opinion on the merits of the case.

11.05.2023

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(ALOK JAIN)
JUDGE

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