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2023 : PHHC : 138353

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-25627-2023 (O&M)
Date of Decision: 30.10.2023

VIKAS

... PETITIONER

V/S

STATE OF HARYANA

... RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. S.P.Arora, Advocate for the petitioner.
Mr. Bhupender Singh, DAG Haryana.
* * *

VIVEK PURI, J. (ORAL)

1. The petitioner is seeking regular bail in case bearing FIR No. 253 dated 10.09.2021 under Sections 328, 365, 376(2)(n), 506, 120-B/34 IPC, registered at Police Station Julana, District Jind.
2. Custody certificate has been taken on record.
3. Learned counsel for the petitioner contends that as per the allegations in the FIR, the prosecutrix who is aged about 20 years was alone in the house when she was enticed away by the petitioner. The petitioner had allegedly administered some stupifying material to the prosecutrix which rendered her unconscious. She was taken to a hotel and rape was committed. The allegations were also levelled against 2 other persons who were guarding the room when the occurrence took place but they have been found to be innocent. FIR has been lodged after a delay of four days. There are material contradictions in the cross-examination of the prosecutrix which also indicates that other family members were also present in the house when she was allegedly taken away by the petitioner. Moreover, the application under Section 319 Cr.P.C. for summoning other persons as accused has been dismissed. The statement of the prosecutrix during the course of trial has been recorded. The arrest of the petitioner was effected on 04.10.2021 and is not

involved in any other case.

4. Learned State counsel has opposed the bail application on the score that there are specific and categoric allegations levelled against the petitioner with regard to commission of rape upon the prosecutrix. The prosecutrix has even supported the allegations during the course of trial. Out of 16, 2 witnesses have been examined.

5. It is significant to note that the prosecutrix was aged about 20 years at the time of occurrence. The statement of the prosecutrix during the course of trial has been recorded. As such, it cannot be said that the petitioner can in any manner win over or influence the prosecutrix. The application under Section 319 Cr.P.C. for summoning Jony and Santosh as co-accused has already been dismissed by the learned trial Court. There is delay of four days in lodging the FIR. The petitioner is in custody for a period of more than 2 years and not involved in any other case. Still 14 witnesses remain to be examined. The conclusion of trial is likely to take some time and no fruitful purpose would be served by detaining the petitioner in further custody.

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

7. The petition is allowed.

30.10.2023

Janki

(VIVEK PURI)
JUDGE