

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.28494 of 2022 (O&M)
Date of Decision.23.01.2023

Ravinder
State of Haryana

Vs

...Petitioner
...Respondent

CORAM:HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. Sanjay Verma, Advocate
for the petitioner.

Mr. Kapil Bansal, DAG, Haryana.

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JAISHREE THAKUR J. (ORAL)

Explanation by way of affidavit furnished by Dr. C.S. Rao, IPS, Director, Forensic Science Laboratory, Madhuban, Karnal in the court today is taken on record.

This is third petition that has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in FIR No.1 dated 03.01.2021 registered under Sections 363 IPC (Sections 366A, 506 IPC and Sections 6, 17 of the POCSO Act, 2012 added later on) at Police Station Tigaon, Faridabad, Haryana.

Learned counsel appearing for the petitioner would contend that the petitioner is in custody since 27.01.2021 and both the prosecutrix stand examined. It is contended that FSL report as made available would reflect that human semen was detected on Exhibit No.1, which is underwear of the accused. However, no semen could be detected on Exhibit No.3 and 4 (vaginal swabs). It is further contended that even though the prosecutrix have supported the case as set up in the FIR, there is no likelihood of the petitioner influencing their testimony, considering the fact that they stand examined. Moreover, the prosecutrix are no longer alive. It is submitted that one prosecutrix has expired at her own hand and another succumbed to Dengue virus. It is also contended that

trial is at its nascent stage since 25 witnesses have been summoned and only three witnesses stood examined.

Learned counsel appearing on behalf of the respondent-State opposes grant of bail to the petitioner by contending that the petitioner herein has been nominated as an accused in the FIR attracting offence under the POCSO Act.

I have heard learned counsel for the parties and have perused the paper book. This Court is informed that both the prosecutrix have expired, however, their testimonies have been recorded. Keeping in view the fact that both the prosecutrix stood examined and the petitioner herein is in custody for a period of two years and the trial is likely to take some time to conclude, no useful purpose would be served in keeping the petitioner behind bars. The instant petition is allowed and the petitioner is directed to be released on regular bail on his execution of adequate personal/surety bonds to the satisfaction of concerned trial court/Duty Magistrate. However, any observation made herein shall not be construed to be an expression on merits of the case.

However, this matter is being kept alive since the affidavit as furnished by Director, Forensic Science Laboratory, Madhuban, Karnal does not explain the cause of delay in furnishing DNA report, though the deponent explained the delay by submitting that DNA analysis was not required, however, same should have been mentioned in the FSL report.

Let better affidavit be filed within a period of two weeks.

List on 24.03.2023.

January 23, 2023
Pankaj*

(JAISHREE THAKUR)
JUDGE

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