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2023 : PHHC : 083076

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-29088-2023

Date of Decision: 03.07.2023

SUNIL KUMAR

... PETITIONER

V/S

STATE OF HARYANA

... RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. Ram Bilas Gupta, Advocate for the petitioner.
Mr. Surinder Kumar Dagar, DAG Haryana.

* * *

VIVEK PURI, J. (ORAL)

1. The petitioner is seeking regular bail in case bearing FIR No. 493 dated 07.11.2021 under Sections 506 IPC and Section 6 of Protection of Children from Sexual Offences Act, registered at Police Station Adarsh Nagar, Ballabgarh, District Faridabad.
2. Custody certificate has been taken on record.
3. Briefly, as per the allegations in the FIR, the victim was aged about 16 years and the petitioner is the son of the landlord. During the absence of the other family members, the petitioner had been committing rape upon the victim.
4. Learned counsel for the petitioner contends that the first incident of the alleged sexual assault took place in December 2020 and the last incident took place in August, 2021 but the FIR has been lodged on 07.11.2021 i.e. after a lapse of period of about one year from the date of first incident. There is no supporting medical evidence to indicate the commission of rape. Moreover, the victim had not produced the copy of 8th standard marks sheet to the investigating agency. She is working in Bansal Medical store and

drawing a salary of Rs. 8,000/-. Her age is more than 18 years.

5. Learned State counsel has opposed the bail application on the score that there are specific allegations levelled by the victim with regard to commission of rape against the petitioner in her statement recorded during the course of investigation as well as during the course of trial. Moreover, out of 13, 4 witnesses have been examined till date.

6. It is significant to note that there is a significant delay in lodging the FIR. There is lack of medical evidence to support the version as put forth by the prosecutrix and the statement of the prosecutrix during the course of trial has been recorded. As such, it cannot be said that the petitioner can win over or influence her in any manner. The custody certificate indicates that the petitioner is in custody for a period of 1 year, 7 months and 25 days and not involved in any other case. So far only 4 out of 13 witnesses have been examined. The conclusion of trial is likely to take some more time and no fruitful purpose would be served by detaining the petitioner in further custody.

7. 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.

8. The petition is allowed.

03.07.2023
Janki

(VIVEK PURI)
JUDGE

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