

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Date of Decision: 10.10.2023

1. CRM-M-30793-2023
SHAMI ... PETITIONER

V/S

STATE OF HARYANA ... RESPONDENT

2. CRM-M-38558-2023
SHAREEFA ... PETITIONER

V/S

STATE OF HARYANA ... RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. Nitin Sharma Advocate for the petitioner in
CRM-M-30793-2023.

Mr. Abdul Aziz, Advocate for the petitioner in
CRM-M-38558-2023.

Mr. Ranvir Singh Arya, Addl. AG Haryana.

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VIVEK PURI, J. (ORAL)

1. Petitioners are seeking regular bail in case bearing FIR No. 165 dated 18.08.2022 under Sections 323, 342, 365, 376(2)(n) (Section 363, 366 IPC deleted later on) and Section 6 of Protection of Children from Sexual Offences Act and Sections 9 and 10 of Children Marriage Prohibition Act registered at Police Station Sadar Panipat, Haryana.
2. Custody certificates and status report by way of affidavit of Satish Kumar, Deputy Superintendent of Police, City Panipat in CRM-M-

30793-2023 on behalf of the State have been taken on record.

3. Learned counsel for the petitioners contend that primarily the allegations with regard to commission of rape have been attributed against Murad Ali, co-accused. The victim is stated to be aged about 16 years. In fact, the victim has solemnized marriage with Murad Ali. The petitioners are stated to be the witnesses to the *Nikahnama* dated 22.08.2022. The allegations with regard to commission of rape have not been attributed against the petitioners. The investigation of the case is complete and the challan has been presented in the Court. The petitioners are in custody for a period of 6 months and 12 days and not involved in any other case.

4. Learned State counsel has opposed the bail applications on the score that Murad Ali, co-accused had committed rape upon the victim and she became pregnant.

5. The report of DNA analysis has not yet been received. The allegations against Shami, petitioner are to the effect that Murad Ali along with him had kidnapped the victim. However, it has not been disputed that the allegations with regard to commission of rape have not been attributed against the petitioners and moreover, in her statement under Section 164 Cr.P.C. the victim has not specifically named any of the petitioners.

6. The petitioners are in custody for a period of about 6-1/2 months and not involved in any other case. The investigation of the case is complete and the challan has been presented in the Court. The conclusion of trial is likely to take some time and no fruitful purpose would be served

by detaining the petitioners in further custody.

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

8. The petitions are allowed.

10.10.2023

Janki

(VIVEK PURI)
JUDGE

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