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2023 : PHHC : 131342

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-33417-2023

Date of Decision: 10.10.2023

VIKAS

... PETITIONER

V/S

STATE OF HARYANA

... RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. Kamal Kant, Advocate for the petitioner.
Mr. Ranvir Singh Arya, Addl. AG Haryana.

* * *

VIVEK PURI, J. (ORAL)

1. The petitioner is seeking regular bail in case bearing FIR No. 325 dated 13.07.2022 under Sections 376(3), 328 IPC and Section 6 of Protection of Children from Sexual Offences Act, registered at Police Station Kunjpura, District Karnal, Haryana.
2. Custody certificate and reply by way of affidavit of Subhash Chander, Deputy Superintendent of Police, Indri, Karnal on behalf of the State have been taken on record.
3. Learned counsel for the petitioner contends that during the course of trial, the victim has not supported the prosecution version and even the report of DNA analysis is inconclusive. The petitioner is in custody for a period of 1 year, 2 months and 18 days and not involved in any other case.
4. Learned State counsel, on instructions of ASI Suraj Bhan, has not disputed the aforesaid factual aspects but has submitted that the victim was aged about 13 years at the time of occurrence and as per the story of the prosecution, she was impregnated by the petitioner. Out of 20, 2 witnesses including the victim have been examined.

5. It is significant to note that as per the allegations of the prosecution, the victim is aged about 13 years and was subjected to penetrative sexual assault after administering some stupefying material to her by the petitioner. Significantly, during the course of trial, the victim has not supported the prosecution version and has not uttered any word implicating the petitioner with the commission of crime. Although, the victim became pregnant and the pregnancy was terminated but the report of DNA analysis is inconclusive and therefrom the paternity cannot be ascertained. Still 18 witnesses remain to be examined. Statement of the victim during the course of trial has been recorded and as such, it cannot be said that the petitioner can in any manner win over or influence the victim. 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.

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.

10.10.2023

Janki

**(VIVEK PURI)
JUDGE**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No