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2023 : PHHC : 131422

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-42016-2023

Date of Decision: 10.10.2023

AMAR KUMAR

... PETITIONER

V/S

STATE OF HARYANA

... RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. Anshumaan Dalal, 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. 813 dated 25.10.2022 under Sections 365, 302 IPC (Sections 365 and 302 IPC deleted and report u/s 173 Cr.P.C presented under Sections 306, 363, 366, 376(2)(n) IPC and Section 6 of Protection of Children from Sexual Offences Act), registered at Police Station City Rohtak, District Rohtak.

2. Custody certificate and reply by way of affidavit of Virender Singh, Deputy Superintendent of Police, Rohtak on behalf of the State have been taken on record.

3. Learned counsel for the petitioner contends that as per the allegations of the prosecution, the deceased who was aged about 17 years and the petitioner were residing in a room as tenants of Rajesh. The deceased had committed suicide by hanging herself in the room which was bolted from inside. On the receipt of the report with regard to occurrence, an entry in the daily diary, Annexure P-2 was recorded on 27.10.2022. The FIR has been registered on the basis of the statement of the brother of the deceased alleging that the petitioner along with two others had kidnapped the victim on 28.09.2022. The matter with regard to kidnapping was never reported at any Forum till the death of the victim.

Even as per the report of FSL, no human semen was found in the swabs. The deceased had not recorded any suicide note. The petitioner is in custody for a period of 11 months and 14 days and not involved in any other case. The offence under Sections 365 and 302 IPC have been deleted. The charge has been framed under Sections 306, 363, 366, 376(2)(n) IPC and Section 6 of Protection of Children from Sexual Offences Act.

4. Learned State counsel has opposed the bail application on the score that out of 26, 7 witnesses have been examined and the occurrence took place in a room where the petitioner has been residing with the deceased. It has also been submitted that two of the co-accused are yet to be arrested.

5. It is significant to note that as per the report of chemical examiner, the human semen has not been detected and furthermore, the deceased had not recorded any suicide note. The custodial interrogation of the petitioner is over, investigation of the case is complete and challan has been presented. Still 19 witnesses remain to be examined. The petitioner is in custody for a period of about 11-1/2 months and not involved in any other case. 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.

10.10.2023

Janki

**(VIVEK PURI)
JUDGE**

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