

228
IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-43722-2023 (O&M)
Date of decision : 11.09.2023

Raj Kumar ... Petitioner(s)
Versus
State of Haryana ... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Kapil Khanna, Advocate for the petitioner.
Ms. Mayuri Lakhanpal Kalia, DAG Haryana.

ALKA SARIN, J. (ORAL)

1. This is the second petition filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the petitioner in FIR No.0163 dated 24.08.2020 under Section 506 of the Indian Penal Code, 1860 and Section 4 of the Protection of Children from Sexual Offences Act, 2012, registered at Police Station Sector 6, Dharuhera, District Rewari. The first petition (CRM-M-41328-2020) was dismissed as withdrawn on 14.12.2020.
2. Learned counsel for the petitioner would contend that the petitioner has been implicated in a totally false case. Learned counsel would further contend that the incident itself is rather improbable as it was alleged in the FIR that the daughter of the complainant went to see what were the sounds coming from the roof and they had waited for her to come back. When she did not come back they went up to see what had happened and the complainant was told that the petitioner had forcibly raped the daughter of

the complainant. Learned counsel has referred to the DNA Report appended with the present petition as Annexure P-2 wherein the DNA profile has not matched with that of the petitioner. It is further the contention of learned counsel that the petitioner has been in custody for a period of 02 years 02 months and 08 days and that the petitioner has absolutely clean antecedents.

3. Notice of motion.

4. On the asking of the Court, Ms. Mayuri Lakhanpal Kalia, DAG Haryana accepts notice on behalf of the State. Learned counsel for the State has filed the custody certificate and as per the custody certificate the petitioner has been in custody for a period of 02 years 02 months and 08 days and there is no other case pending against the petitioner. Learned State counsel on instructions from SI Archana is not in a position to deny the fact that as per the DNA Report (Annexure P-2), the DNA profile does not match with that of the petitioner. Learned State counsel has further pointed out that out of 21 witnesses, 18 have been examined.

5. Heard.

6. In the present case the petitioner is a young boy of 25 years of age and has absolutely clean antecedents. As per the custody certificate, the petitioner has been in custody for a period of 02 years 02 months and 08 days. The petitioner has been granted interim bail on two earlier occasions and he has not misused the concessions so granted. As per the DNA Report (Annexure P-2), the DNA profile does not match with that of the petitioner.

In the present case out of 21 witnesses, 18 have been examined. The trial is

likely to take some time to conclude and no useful purpose would be served by keeping the petitioner behind the bars any further.

7. In view of the above and without commenting upon the merits of the case, this Court deems it to be a fit case to grant the concession of regular bail to the petitioner. The petitioner is directed to be released on bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the Trial Court/Additional Sessions Judge (Duty) concerned.

8. However, the Prosecution will always be at liberty to apply for cancellation of bail in case the petitioner is found to be misusing the concession of bail in any manner.

9. It is also made clear that any observation made herein shall not be treated as an expression of opinion on the merits of the case.

10. Disposed off. Pending applications, if any, also stand disposed off.

11.09.2023

Yogesh Sharma

(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO