

CRM-M-44810-2023
Date of decision: 12.10.2023

...PETITIONER

STATE OF HARYANA

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Mr. Ranvir Singh Arya, Addl. AG, Haryana.

VIVEK PURI,J. (ORAL)

1. Custody certificate of the petitioner has been placed on record.
2. Imam-petitioner is seeking regular bail in the case bearing FIR No.228 dated 28.05.2022 under Sections 323/376/511/452/506 IPC, 1860 registered at Police Station SGM Nagar, Faridabad, District Faridabad.
3. Status report by way of affidavit Mahesh Kumar, HPS, Assistant Commissioner of Police, NIT, Faridabad on behalf of the respondent-State and custody certificate of the petitioner have been filed and the same are taken on record.
4. Briefly, the FIR has been registered on the allegations that the victim was a deaf and dumb girl and aged about 21 years. The petitioner had entered the house of the victim and had seeing her alone, he removed her clothes and made an attempt to commit rape. The complainant who is the sister of the victim came upstairs and the petitioner slipped away.
5. Learned counsel for the petitioner contends that the victim was a

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complications at the time of her delivery. The complainant is the sister of the victim and also an eye-witness to the occurrence. During the course of trial, she has not supported the prosecution version. Furthermore, it is a case of attempt only and even, at the time of medico legal examination, no semen could be detected from the vaginal swabs of the victim. Though, the petitioner is involved in 05 other cases but he has undergone sentence imposed upon him in 02 cases and he is on bail in other 03 cases registered against him. There is no other incriminating evidence against the petitioner.

6. Learned State counsel has not disputed the fact that the complainant has not supported the prosecution version and the victim has since died. It has also not been disputed that no semen was detected in the vaginal swabs and it is a case of attempt to commit rape. It has been submitted that out of 16, 04 witnesses have been examined till date.

7. It is significant to note that the complainant who is also stated to be an eye-witness to the occurrence and sister of the victim has not supported the prosecution version during the course of trial. It is a case of attempt to commit rape upon deaf and dumb girl who was aged about 21 years. No human semen was detected in the vaginal swabs. The victim has unfortunately expired before the statement could be recorded in the trial Court. Though, the petitioner is facing trial in 03 other cases but is stated to be on bail in those cases and has undergone sentence imposed upon him in 02 other cases under Section 379 IPC. Still 12 witnesses remain to be examined. The conclusion of trial is likely to take sometime. No fruitful purpose will be served by detaining the petitioner in further custody. As such, sufficient mitigating circumstances are made out to extend the concession of bail to the petitioner.

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petition is allowed. The petitioner is ordered to be released on bail on his furnishing requisite bail bonds to the satisfaction of the learned trial Court/Duty Magistrate concerned.

9. The petition is allowed accordingly.

12.10.2023
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(VIVEK PURI)
JUDGE

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