

2023:PHHC:060289

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

Sr. No.: 214

CRM No.M - 48163 of 2022(O&M)

Date of Decision: April 27, 2023

Ajay Kumar

..... PETITIONER(S)

VERSUS

State of Haryana

..... RESPONDENT(S)

...

CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA

...

PRESENT: - Mr. A.S. Shera, Advocate and
Ms. Manju Singh, Advocate
for the petitioner.

Ms. Mahima Yashpal, DAG, Haryana.

. . .

Tribhuvan Dahiya, J (Oral)

This is a petition u/s 439 Cr.P.C. seeking regular bail to the petitioner in case FIR No.591 dated 06.10.2021, under Section 346 of IPC (Sections 365, 376(2)(n) IPC have been added later on), registered at Police Station Kundli, District Sonipat.

2. The FIR was lodged on a statement of victim's sister, stating that her sister, aged about 24 years, who was working in a factory, had gone somewhere out on 05.10.2021 at around 8-9 PM, without telling anyone as to where was she going. Despite having searched, she could not be found.

3. Learned counsel for the petitioner contends that the victim is of mature age, and she willingly accompanied the petitioner. The two stayed together from 05.10.2021 to 03.02.2022, when she was recovered, and under pressure from her parents, gave the statement under Section 164 Cr.P.C. against the petitioner alleging rape and illegal confinement by him. There is no medical evidence on record, as she refused her internal medical examination, as apparent from the consent form signed by her, dated

03.02.2022 (Annexure P-2).

4. Learned State counsel, on instructions from ASI Dalbir, submits that the trial of the case is going on, and the complainant stands examined. The victim herself has not testified so far despite having been summoned by trial Court. Bailable warrants have now been issued against her. The fact regarding refusing medical examination by her, is not disputed. The petitioner is stated to be in custody since 05.02.2022 and there is no other case pending against him.

5. Submissions made by learned counsel for the parties have been considered.

6. Undisputedly, the victim, aged 24 years, stayed with the petitioner for about four months and refused her medical examination as well. She has not come forth to testify before the trial Court so far. In these circumstances, whether the offences alleged are made out against the petitioner, is to be debated during trial, which will take some time to conclude. Petitioner has no criminal antecedents, and therefore, no useful purpose will be served by confining him to custody any longer.

7. Accordingly, the petition is allowed and the petitioner is ordered to be released on bail to the satisfaction of trial Court/Duty Magistrate concerned.

(Tribhuvan Dahiya)
Judge

April 27, 2023
Lavisha

Whether Speaking/ Reasoned:
Whether Reportable:

Yes/ No
Yes/ No