

209 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-50009-2022
Date of Decision: 18.01.2023

AMIT MISHRA ... PETITIONER
VS.
STATE OF HARYANA .. RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present : Mr. S.S.Gill, Advocate, for the petitioner.

Mr. Ranvir Singh Arya, Additional Advocate General, Haryana.

VIVEK PURI, J.(ORAL)

The petitioner is seeking regular bail in the case bearing FIR No. 54 dated 19.06.2021 under Sections 342/363/366/376AB/506 IPC and Section 6 of POCSO Act registered at Women Police Station Manesar, Gurugram.

Custody certificate has been placed on record.

Learned counsel for the petitioner contends that the allegations with regard to penetrative sexual assault have been attributed in the FIR against the petitioner and co-accused, namely, Amar Pandey, who is juvenile. During the course of trial, the victim and her mother have not supported the prosecution version. Even as per the report of FSL, no semen has been detected. The petitioner is in custody for a period of 01 year, 06 months and 26 days and not involved in any other case.

Learned State counsel has opposed the bail application on the score that the victim is aged about 08 years and the report of DNA Analysis has not yet been received. It has been further stated that out of 18, 07 witnesses have been examined. However, it has not been disputed that the victim and her mother i.e. the complainant have not supported the prosecution version.

It is significant to note that the petitioner is in custody for a period of 01 year, 06 months and 26 days and not involved in any other case. Although, the victim is aged about 08 years, but significantly neither the victim nor her mother have supported the prosecution version in the trial Court. Both of them have specifically and categorically stated that the victim had fallen from the cot and had sustained injuries in the private parts. Even, as per the report of Chemical Examiner, no semen has been detected. So far, out of 18, only 07 witnesses have been examined. The conclusion of trial is likely to take some time and no fruitful purpose would be served by detaining the petitioner in further custody.

In such circumstances, sufficient grounds are made out to extend the concession of bail to the petitioner. Accordingly, without making any observation on the merits of the case, the present petition is allowed and petitioner is ordered to be released on bail, subject to his furnishing bail/surety bonds to the satisfaction of concerned trial Court/Chief Judicial Magistrate/Duty Magistrate.

18.01.2023
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(VIVEK PURI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No