

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

Sr. No.: 215

Criminal Miscellaneous No.M-5276 of 2023

Date of Decision: *February 07, 2023*

Nadeem

..... PETITIONER(S)

VERSUS

State of Haryana

..... RESPONDENT(S)

. . .

CORAM: **HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA**

. . .

PRESENT: - Mr. Randhir Singh Hooda, Advocate for the petitioner.

Ms. Mahima Yashpal, Deputy Advocate General, Haryana.

. . .

Tribhuvan Dahiya, J (Oral)

This is petition under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case FIR No.151 dated 01.04.2022, under Sections 452, 363, 366-A, 376, 506 IPC, & Sections 8, 4, 17 of POCSO Act, 2012 and Section 25 of Arms Act, registered at Police Station Sadar Tauru, District Nuh.

As per allegations in the FIR, recorded on the statement of the victim herself, the petitioner had been accused of harassing her for last many days. One month prior to lodging of the FIR, the accused entered her house and forcibly tried to commit rape. Keeping in view her dignity and respect of the family, no complaint in that regard was lodged. However, the petitioner did not mend his ways and kept on harassing the victim and also her family members. He, along with co-accused, kidnapped the victim on 28 March around 8:00 p.m., took her to a room and committed rape upon her. Next day on 29 March, the victim accompanied the petitioner and other co-accused to an Advocate at Delhi Court, where her signatures on few papers were obtained.

Learned counsel for the petitioner contends that during trial neither the victim nor her father has supported the prosecution. Their

testimonies have been placed on record as Annexures P-2 & P-3 respectively. The victim has denied the suggestion that she was less than eighteen years of age at the time of the said incident of rape. She has also denied that the accused persons kidnapped and committed rape upon her, or forcibly tried to solemnize marriage. The petitioner is in custody since 17.04.2022.

Learned State counsel, on instructions from SI Vinita, does not dispute the submissions of learned counsel for the petitioner. She, however, submits that trial of the case is going on and three witnesses have already been examined. Therefore, the petitioner should not be released on bail.

Material prosecution witnesses already stand examined. Trial of the case is not likely to conclude in near future as only three of the twenty four witnesses have been examined. No useful purpose would be served by keeping the petitioner in custody during trial.

Therefore, the petition is allowed and the petitioner is ordered to be released on bail on furnishing of requisite bonds/sureties to the satisfaction of trial Court/Duty Magistrate concerned.

(Tribhuvan Dahiya)
Judge

February 07, 2023
payal

Whether Speaking/ Reasoned:
Whether Reportable:

Yes/ No
Yes/ No