

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(215)

CRM-M-804-2023

Date of Decision: 16.01.2023

Aman Kumar

--Petitioner

Versus

State of Haryana

--Respondent

CORAM:- HON'BLE MR. JUSTICE RAJESH BHARDWAJ.

Present:- Mr. Pankaj Bali, Advocate for the petitioner.

Mr. B.S. Virk, DAG, Haryana.

RAJESH BHARDWAJ.J (Oral)

This is the second petition filed under Section 439 Cr.P.C seeking the benefit of regular bail to the petitioner in case FIR No.85 dated 19.2.2021 under sections 323, 354, 354-D, 506 I.P.C, Section 10 of POCSO Act and sections 3(2)(va) of SC/ST Act, registered at Police Station, Indri, District Karnal.

As per factual matrix, a complaint was lodged by Fateh Singh complainant, wherein it was alleged that his daughter and niece were studying in Govt. Senior Secondary School in 9th class. Both of them complained number of times regarding the misbehavior caused to them by Amarjeet @ Bhura and Aman Kumar i.e. the present petitioner. He tried to make them understand, however, there was no effect of the same. On 19.2.2021 when his daughter and niece were coming from school they were stalked by Amarjeet @ Bhoora and he tried to get his daughter on his motorcycle. Both Amarjeet @ Bhura and Aman Kumar were on their respective motorcycles. On his resistance they abused him with casteist abuses and beaten him as well. Amarjeet @ Bhura put pistol on his

forehead. He being helpless could not resist them. A request was made to take legal action against the culprits.

On the basis of the complaint, present FIR was lodged and investigation commenced. Petitioner was arrested on 26.2.2021. He approached learned Fast Track Special Court, Karnal for grant of bail, however, after hearing the parties, the same was declined vide order dated 5.8.2022. Aggrieved by the same petitioner approached this court for grant of bail by way of filing CRM-M-24989-2021, which was dismissed as withdrawn by this court vide order dated 7.7.2021. Hence the present second petition.

Learned counsel for the petitioner vehemently contends that petitioner has been falsely implicated in the present case. He submits that the petitioner himself belongs to the Scheduled Caste community and he is behind bars for the last about two years and both the alleged material witnesses i.e. victims have been examined by the learned Trial Court. It is submitted that the petitioner has no criminal antecedents. Counsel submits that the allegations against the petitioner are that he accompanied the co-accused Amarjeet @ Bhura. It is submitted that during investigation the allegations of putting pistol on the forehead of the complainant were also found false. Counsel submits that in the overall facts and circumstances of the case petitioner deserves to be granted bail.

On the other hand, learned State counsel has submitted that there are specific allegations against the petitioner. He submits that both the victims in this case are minor and there are specific allegations of sexual harassment caused to them by the petitioner. It is submitted that both the victims have been examined by the learned Trial Court and they have duly

supported the case of prosecution. It is further submitted that out of total 15 prosecution witnesses only two i.e. the victims have been examined. It is submitted that petitioner has no criminal antecedents.

I have heard learned counsel for the parties at length and have gone through the records carefully.

Admittedly, both the victims in this case are minor and have already been examined by the learned Trial Court. Petitioner is behind bars since 26.2.2021. The allegations against the petitioner are that he was accompanying the co-accused Amarjeet @ Bhura. As the material witnesses have already been examined by the learned Trial Court, the possibility of the petitioner influencing the material witnesses is no more. There is nothing on record to show that petitioner has any criminal antecedents.

This court would refrain itself from commenting on the merits of the case, as the allegations and counter allegations would be assessed only after evaluation of the complete evidence led by both the sides before the Trial Court. The trial would take sufficiently long time in its conclusion.

In the totality of facts and circumstances and without making any observation on merits, present petition is allowed. Petitioner be enlarged on bail on his furnishing bail/surety bonds subject to satisfaction of Trial Court/Duty Magistrate, concerned. Nothing stated herein shall be treated as an expression on the merits of the case.

(RAJESH BHARDWAJ)
JUDGE

16.01.2023

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