

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

300

CRM-M-23202-2024 (O&M)
Date of decision: 16.05.2024

Amit @ Monu

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Aman Pal, Advocate
for the petitioner.

Mr. Neeraj Poswal, AAG, Haryana.

MANISHA BATRA, J. (Oral)

1. This petition has been filed by the petitioner under Section 439 Cr.P.C. seeking regular bail in case bearing FIR No. 409 dated 07.10.2022, registered under Sections 307, 376-D, 506, 34 of IPC and Section 25 of the Arms Act at Police Station Urban Estate, Rohtak.
2. Brief facts of the case relevant for the purpose of disposal of this petition are that the aforementioned FIR was registered on the basis of the statement recorded by the complainant/prosecutrix 'S' (*name withheld*) alleging therein that she was a labourer by profession. On 06.10.2022, the petitioner took her to his office at village Bohar for preparing meals, where 4/5 youths were already present. All of them were in drunken condition and

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she was subjected to gang rape by them. They again tried to commit rape upon her and on her resistance, one of those youths shot a fire with some fire arm at her with intent to kill her. She had fallen down and on looking at her condition, one of those youths had got her admitted in Kainos Hospital and they had fled away from there. She had subsequently been admitted in Trauma Centre, PGIMS, Rohtak. After registration of FIR, investigation proceedings were initiated. The petitioner was arrested on 10.10.2022. The co-accused were also arrested. After completion of necessary investigation and usual formalities, challan under Section 173 of Cr.P.C. was presented in the Court and presently, the petitioner along with the co-accused is facing trial for commission of aforesaid offences. He had moved an application before the trial Court for grant of regular bail but the same had been dismissed, vide order dated 24.04.2024.

3. Learned counsel for the petitioner has argued that he deserves to be extended benefit of bail as the complainant/prosecutrix, who is the star witness of the case, has not supported the prosecution version and did not implicate him and the co-accused Arun @ Bholu, who is also facing trial with him, as the persons, who had committed rape upon her or had caused her fire arm injuries. The DNA report does not connect the petitioner with the subject offences. It is submitted that the trial is likely to take time. No purpose would be served by keeping the petitioner in custody anymore. More so, there is delay of 39 hours in lodging of the FIR. With these broad submissions, it is argued that the petition deserves to be allowed.

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4. *Per contra*, learned State counsel has argued that the petitioner was specifically named in the FIR. Serious allegations have been imputed to him and hence has urged that the petition does not deserve to be allowed.

5. I have heard learned counsel for the parties at considerable and have also gone through the record carefully.

6. Annexure P-3 is the copy of the statement of the prosecutrix recorded before the trial Court and on a perusal of the same, it is revealed that though she deposed about receiving a fire arm injury at the hands of one youth about one and a half year back by saying that she was waiting for a bus at Sheela byepass, Rohtak, when 4-5 youths riding in a vehicle reached there in drunken condition and had forcibly held her hand and when an altercation had taken place, one of them had fired at near her right knee with a pistol. She deposed that it was the police, who had got her admitted in the hospital. She stated that neither any offence of rape was committed upon her nor the petitioner and co-accused, present in Court, were the persons who had caused injuries to her by fire arm. She was declared hostile on the request of learned public prosecutor and was allowed to be cross-examined by him but denied that any offence of gang rape was committed upon her or that it was the petitioner and his friends, who had fired shot at her. As stated by learned State counsel, the DNA report also does not connect the petitioner with the offence of rape. The petitioner is in custody since 10.10.2022. The trial is likely to take time. Keeping in view the nature of the evidence which has come on record in the form of testimony of the prosecutrix, the period of incarceration of the petitioner and the attendant facts and circumstances of the case, I am of

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the considered opinion that the petitioner deserves to be given benefit of regular bail.

7. Accordingly, the present petition is allowed and the petitioner is ordered to be released on regular bail, subject to his furnishing personal/surety bonds to the satisfaction of the trial Court/Duty Magistrate concerned.

8. It is made clear that any observation made herein above is only for the purpose of deciding the present petition and the same shall have no bearing on the merits of the case.

16.05.2024

Waseem Ansari

(MANISHA BATRA)
JUDGE

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