

In the High Court of Punjab and Haryana at Chandigarh

CRM-M- 42465 of 2016
Date of Decision:28.4.2017

Bhagat Singh

---Petitioner

vs.

State of Haryana

---Respondent

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr. Johan Kumar, Advocate
for the petitioner
Ms. Dimple Jain, AAG, Haryana assisted by
Mr. Sanjiv Gupta, Advocate
for the complainant

Rekha Mittal, J.

The petitioner prays for grant of regular bail in FIR No. 291 dated 15.7.2015 under Sections 365, 376, 506 of the Indian Penal Code (in short “IPC”) registered at Police Station, SGM Nagar, Faridabad.

Counsel for the petitioner has submitted that a missing report was lodged on 15.7.2015 and the missing girl was produced before the Judicial Magistrate, Faridabad and recorded her statement dated 16.7.2015 wherein she has not levelled any allegations against the petitioner and further stated that neither she wanted to go back home nor any action against anyone. On the basis of said statement, the Judicial Magistrate passed order dated 16.7.2015 that the girl did not want to go to her family. She being major was left at liberty to go where ever she wanted to go. The prosecutrix has already been examined in the case. In her cross

examination, she admitted sending various messages to the petitioner detailed in Ex. DA (running into five pages). Though the prosecutrix in her cross examination has stated that she recorded her statement on 16.7.2015 under threat, the said fact gets falsified and belied in view of facts elicited in her further cross examination whereby she has admitted that she stayed at the house of parents of Bhagat Singh at Alalpur in the night of 24.7.2015 and she alongwith Bhagat Singh went to Vrindavan on 25.7.2015 in the morning and visited one temple Bankey Bihari. She has also admitted correctness of the photographs Exs. DC to DK and some of the photographs would indicate that the prosecutrix got her photographs clicked with children of Bhagat Singh, sufficient to show that she developed physical relations with the petitioner despite knowing that the petitioner was married and had four children. The last submission made by counsel is that the material witnesses in the case have already been examined. There is no possibility of the petitioner tampering with the evidence, in case enlarged on bail.

Counsel for the State assisted by counsel for the complainant would urge that the prosecutrix got recorded her second statement under Section 164 of the Criminal Procedure Code (in short “Cr.P.C.”) on 24.7.2015 wherein she levelled specific allegations against the petitioner with regard to committing sexual assault. During her cross examination, she has explained the circumstances under which she made the first statement under Section 164 Cr.P.C. on 16.7.2015. It is further argued that the petitioner is a member of disciplined force and the very fact that he committed rape upon a young girl of 20 years knowing fully well that he

was married and father of four children would disentitle him to seek concession of bail. The last submission made by counsel is that applications filed by the petitioner for grant of bail in anticipation of arrest were dismissed by this Court and even his plea for grant of regular bail was rejected on 19.8.2016 by the Court.

Counsel for the petitioner, in reply, would urge that at that point of time when his earlier bail application was dismissed, witnesses of the prosecution had not been examined. As material witnesses have already been examined, there is change of circumstances to maintain the present application for bail.

I have heard counsel for the parties and perused the paper book.

The prosecutrix has admitted that even subsequent to recording of her second statement under Section 164 Cr.PC. on 24.7.2015, she stayed at the parental house of the petitioner and accompanied the petitioner to Vrindavan on 25.7.2015. The prosecutrix has also admitted correctness of photographs Exs. DC to DK and having sent messages to the petitioner detailed in Ex. DA.

On a query raised by the Court, counsel for the State has apprised the court that out of 17 witnesses cited by the prosecution, 9 have already been examined and the case is now fixed for 6.6.2017 for remaining evidence of the prosecution.

Taking a cumulative view of the facts and circumstances discussed hereinbefore, the trial court is directed to conclude the prosecution evidence on or before 15.7.2017. In case the prosecution fails

to conclude its evidence by that date without any fault attributable to the petitioner, bail to the petitioner subject to satisfaction of the trial court. However, he shall abide by the following conditions:-

- (i)He shall not offer any threat, promise or inducement to any person acquainted with the facts of the case so as to dissuade him from disclosing the same to the Investigating Officer/Court; and
- (ii)He shall not leave the limits of this country without prior permission of the Court.

Petition stands disposed of accordingly.

**(Rekha Mittal)
Judge**

28.4.2017

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