

Dharambir Vs State Of Haryana

Court: High Court Of Punjab And Haryana At Chandigarh

Date of Decision: Dec. 29, 2020

Acts Referred: Code Of Criminal Procedure, 1973 " Section 439
Indian Penal Code, 1860 " Section 365, 452, 376, 511

Hon'ble Judges: Ashok Kumar Verma, J

Bench: Single Bench

Advocate: Rakesh K.Lathwal, Vishal Malik

Final Decision: Allowed

Judgement

Ashok Kumar Verma, J

CRM No.21207 of 2020

CRM is allowed as prayed for.

CRM M 24757 of 2020

1. The matter is being taken up through Video Conferencing/WhatsApp due to pandemic of COVID-19.
2. This petition has been filed under under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case FIR No.01 dated 4.1.2020 under Sections 365, 452, 376, 511 of the IPC registered at Police Station Mohana, Sonipat, District Sonipat.
3. The story put forth by the prosecution is that father of the prosecutrix has filed a complaint alleging that on 03.1.2020 at about 11 pm, the petitioner-

Dharambir had trespassed into the house of the complainant and after pressing mouth of his daughter/prosecutrix, he kidnapped her. When he woke

up after sleep, he did not find his daughter on the cot and thereafter he and his wife made search for their daughter and when they reached a nearby

house then they found that the petitioner-accused was forcing their daughter and on seeing them, he ran away from there after jumping over the wall

of the house and they had identified the petitioner/accused.

4. Learned counsel for the petitioner has submitted that the petitioner has been falsely implicated in this case and no such offence had ever occurred.

Learned counsel for the petitioner has further submitted that the prosecutrix is major as she is 19 years old. No case of rape is made out against the

petitioner and at the most, even if it is assumed, it may only be an attempt to rape. Learned counsel has further submitted that in one application, the

prosecutrix has written that no rape has been committed by the petitioner upon her. He has further submitted that the petitioner is in judicial custody

since 05.01.2020 and challan in this case has already been filed. He has submitted that the petitioner deserves the concession of regular bail.

5. Learned counsel for the State has vehemently opposed the grant of regular bail to the petitioner. He has submitted that the petitioner/accused has

committed rape upon the prosecutrix who is merely 19 years of age and the prosecutrix has stated about the factum of rape upon her in her statement

u/s 164 Cr.P.C. recorded before the learned Illaqa Magistrate. Learned counsel has submitted that the allegations against the petitioner are serious in

nature and he does not deserve the concession of bail.

6. I have heard learned counsel for the parties and gone through the paper-book.

7. A perusal of the MLR shows that the age of the prosecutrix is of 19 years. No external marks of injury have been found on her body. Further

more, a perusal of the FSL report shows that human semen was detected only on exhibit-1 (underwear). However, semen could not be detected on

rest of the exhibits mentioned in the FSL report. Although challan has been presented, charges are yet to be framed. The petitioner is under

incarceration since 5.1.2020. Due to outbreak of pandemic of COVID-19, trial would take a long time to conclude. No useful purpose would be

served by keeping the petitioner behind the bars.

8. In view of the above and without expressing any opinion on the merits of the case, this petition is allowed. The petitioner is ordered to be released

on bail subject to his furnishing adequate bail/surety bonds to the satisfaction of the concerned trial court/Duty Magistrate.