

Law Today Live Doc. Id. 15230

PUNJAB AND HARYANA HIGH COURT

Before: Tejinder Singh Dhindsa, J.

CRM-M-16083-2020 (O&M)

Decided on: 13.08.2020

Nikhil

Petitioner

Versus

State of Haryana

Respondent

Present:

Mr. Ankur Lal, Advocate for the petitioner.

Mr. Saurabh Mohunta, DAG, Haryana.

Code of Criminal Procedure, 1973 (2 of 1974), Section 439 -- Indian Penal Code, 1860 (45 of 1860), 323, 377, 379-B, 34 -- Unnatural offence -- Regular bail -- Allegations that two persons in a drunken condition had slapped the complainant, taken away his phone and then called up his mother and thereafter the 3rd person (unnamed) took him besides the canal and did a wrong act with him -- A sum of Rs.5000/- and two mobile phones were also snatched -- Initial allegation was against an unnamed person -- Complainant suffered a supplementary statement in which the name of the present petitioner has figured -- DNA report of the complainant also does not support the prosecution version -- Petitioner was arrested on 18.11.2019 -- Trial is at the initial stage and would take time to conclude particularly keeping in view the current Covid-19 situation -- Petitioner held entitled to the benefit of bail.

(Para 4-12)

TEJINDER SINGH DHINDSA, J. (ORAL) –

1. Matter has been taken up through Video Conferencing via Webex facility in the light of the Pandemic Covid-19 situation and as per instructions.

2. Petitioner seeks benefit of regular bail pending trial in case FIR No.356, dated 31.07.2019, under Sections 323/377/379-B/34 IPC, registered at Police Station Tosham, District Bhiwani.

3. Counsel for the parties have been heard.

4. FIR came to be registered on the statement of complainant Dilip Kumar. Allegations are that on 31.07.2019, two persons in a drunken condition had slapped the complainant, taken away his phone and then called up his mother and thereafter the 3rd person (unnamed) took him besides the canal and did a wrong act with him. A sum of Rs.5000/- and two mobile phones were also snatched.

5. Apparently, the initial allegation was against an unnamed person. Complainant is stated to have suffered a supplementary statement on 18.11.2019 in which the name of the present petitioner has figured.

6. Counsel would argue that the version of the complainant is highly

improbable. The petitioner was not previously known to the complainant and it is not coming forth as to on what basis the petitioner has been identified by the complainant after a period of more than three months from the date of the alleged occurrence.

7. It is further contended that the DNA report of the complainant also does not support the prosecution version.

8. Petitioner was arrested on 18.11.2019.

9. Investigation in the case is complete and the challan has already been presented.

10. Trial is at the initial stage and would take time to conclude particularly keeping in view the current Covid-19 situation.

11. Without making any observations on merits, petitioner is held entitled to the benefit of bail.

12. Petitioner be enlarged on bail subject to his furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate concerned.

13. Disposed of.

Petition allowed.
