

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**

Crl. Misc. No. M-262 of 2015

DATE OF DECISION: 13.01.2015

Naveen

.....Petitioner

Versus

State of Haryana

.....Respondent

**BEFORE:- HON'BLE MRS. JUSTICE DAYA CHAUDHARY**

- 1. Whether reporters of local newspaper may be allowed to see judgment?**
- 2. To be referred to reporters or not?**
- 3. Whether the judgment should be reported in the Digest?**

Present:- Mr. Vaneet Soni, Advocate  
for the petitioner.

Mr. Deepak Sabharwal, Addl. A.G., Haryana.

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**DAYA CHAUDHARY, J.**

The present petition under Section 439 Cr.P.C. has been filed by petitioner-Naveen for grant of regular bail in case FIR No. 564 dated 18.8.2014 registered under Sections 363,366-A IPC (Sections 376,506 IPC and Section 4 of the Protection of Children from Sexual Offence Act, 2012, added subsequently) at Police Station Hisar Civil Lines, District Hisar.

Learned counsel for the petitioner contends that the petitioner has falsely been implicated in this case, whereas, no offence is made out against the petitioner. The FIR was registered on the basis of statement made by complainant, who is mother of the prosecutrix. The daughter of the complainant was not minor at the time of alleged occurrence. Learned counsel further contends that as per school leaving certificate (Annexure P-3) and entry made in the school register (Annexure P-4), the date of birth of the prosecutrix is 8.4.1996 and she was aged about 18 years and 4 months

at the time of alleged occurrence. Learned counsel also submits that the complainant had got corrected the date of birth of the prosecutrix subsequently on 17.8.2014 i.e. after the date of alleged occurrence as 28.7.1997, which is afterthought. It is also the contention of learned counsel that daughter of complainant left the house on her own as she wanted to marry with the petitioner, which is clear from the details of calls and messages exchanged between them. The prosecutrix has also admitted in her cross-examination that she went to the accused with her own consent and nowhere it has been mentioned that petitioner committed rape without consent. Learned counsel also submits that the statements of prosecutrix as well as complainant have already been recorded before the trial Court and there are no chances of tampering with the evidence or influencing the witnesses in any manner. The trial will take long time to conclude and no purpose would be served by keeping the petitioner in custody.

Learned counsel for the respondent-State has not disputed the custody period and also the fact that statements of the complainant as well as of prosecutrix have been recorded but opposes bail to the petitioner because of the seriousness of the offence. Learned State counsel has also not disputed the details of the mobile calls as well as messages exchanged between the petitioner and daughter of the complainant as the same are part of investigation.

Heard the arguments advanced by learned counsel for the petitioner as well as of State and have also gone through FIR as well as other documents available on record.

After hearing the arguments advanced by learned counsel for the petitioner as well as State and on perusal of documents available on record, it is apparent that date of birth of the daughter of the complainant

has been corrected subsequently i.e. after the alleged occurrence as 28.7.2014 and application for correction of date of birth has been made on 8.9.2014, which is subsequent to the date of alleged occurrence. In the FIR, date of birth of the prosecutrix is mentioned as 28.7.1997 whereas in birth certificate dated 11.11.2014, one Sindhya has been shown to be born on 8.10.1997 who is three months younger to the prosecutrix. From the documents annexed as Annexures P-5 and P-6, it is apparent that daughter of the complainant was aged about 18 years and 4 months at the time of alleged occurrence. On perusal of statement of complainant as well of prosecutrix, it is clear that complainant left her house and accompanied the accused with her own free will and from document Annexure P-7, it is also clear that there was exchange of messages between the petitioner and daughter of the complainant, which appears to be a case of consent but it can be seen during trial.

In view of the submissions made by learned counsel for the petitioner and also the fact that there are total 17 prosecution witnesses and statements of two material witnesses i.e. complainant as well as prosecutrix have already been recorded; trial may take some time to conclude and no purpose would be served by keeping the petitioner in custody, this petition is allowed. Petitioner-Naveen is directed to be released on regular bail subject to his furnishing bail/surety bonds to the satisfaction of trial Court.

However, it is made clear that any observation made hereinabove shall not be construed as an expression of opinion on the merits of the case.

January 13, 2015  
pooja

**(DAYA CHAUDHARY)**  
**JUDGE**