

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

**Crl. Misc. No. M-17781 of 2016
Date of decision : 16.08.2016**

Nitin

....Petitioner

versus

State of Haryana

...Respondent

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Dilpreet Singh Gandhi, Advocate,
for the petitioner

Ms. Mahima Yashpal, A.A.G, Haryana

RITU BAHRI, J.

Prayer in this petition is for grant of regular bail to the petitioner, in a case arising out of FIR No. 24 dated 20.11.2015, registered at Women Police Station, Ambala, who has been booked for having committed the offence punishable under Section 120-B IPC and Section 4 of POCSO Act.

F.I.R was registered on the statement made by the father of the prosecutrix alleging that her daughter aged 14 years on 16.11.2015 had gone out without informing anyone and on 18.11.2015, he received a telephonic call that her daughter came back today but is not in her full senses. Thereafter, complainant along with her wife bring prosecutrix back from Chandigarh, who told that Rajia took her on her activa under pressure to fodder Mandi Chungi where petitioner was present and thereafter, she send the prosecutrix along with petitioner, who after

parking his motorcycle on bus stand Ambala Cantt took her at Chandigarh by bus and in Chandigarh, he kept her in a house. He gave the prosecutrix tea and biscuits to eat due to which she became unconcious. Thereafter, prosecutrix ran away to Sector 56, Chandigarh by auto and from there, her sister Nitu took her to Ram Darbar Chandigarh. The complainant stated that he had suspicion that some bad work (rape) has been committed upon her daughter.

Learned counsel for the petitioner submits that there are so many contradictions in the statement of the prosecutrix and the facts stated in the F.I.R. Prosecutrix in her statement stated that she was taken away by the petitioner and she was given tea and biscuits in the bus stand, whereas her father stated that tea and biscuits was given at home where his daughter was taken by the petitioner. Further prosecutrix stated that after two days, she woke up and ran away from that place and went to her grandmother's house from where her grandmother called her father but in the statement of the father, he says that he received a call from his sister, who told him that the prosecutrix is unconscious and her sister bring him from Sector 56 Chandigarh to her house.

Further the prosecutrix herself stated that she don't know if a sexual intercourse was done with her or not. As per deposition of Dr. Neetika P.W.11, the prosecutrix did not give any history of sexual assault and possibility of rupture of hymen are there while cycling, jumping and participating in other games. No external injuries were found on the body of the prosecutrix. No injury marks were found on the thigh, pubic region and perineum of the prosecutrix.

Learned State counsel on instructions has informed the Court that after presentation of the challan and after framing of charges, all prosecution witnesses have been examined except 2. She further stated that the trial is likely to conclude in the near future. The prosecutrix has fully supported the case. As per FSL report, semen could not be detected on any of the exhibits.

Petitioner is in custody since 20.11.2015

Keeping in view the period of incarceration of the petitioner and the totality of the facts and circumstances of the case, this Court feels that there is no need to detain the petitioner any longer.

Accordingly, the present petition is allowed. Petitioner is ordered to be released on bail during pendency of the trial of the present case, subject to his furnishing bond in the sum of Rs.1 lac with one surety in the like amount to the satisfaction of the learned Chief Judicial Magistrate/Duty Magistrate, Ambala.

16.08.2016
G Arora

(RITU BAHRI)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether reportable</i>	<i>No</i>