

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

**Crl. Rev. No. 738 of 2016 (O&M)
Date of decision : 30.08.2016**

Kamal

.....Petitioner(s)

Versus

State of Haryana

...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Ms. Aman Pal, Advocate
for the petitioner.

Mr. Sanjay Kr. Saini, AAG, Haryana.

Mr. P.K. Bansal, Advocate
for the complainant.

ANITA CHAUDHRY, J.

CRM No.9608 of 2016

CRM No.14605 of 2016

CRM No.21911 of 2016

For the reasons set out in the applications, same are allowed as prayed for and accompanying documents (Annexure P-3 to P-5) are allowed to be taken on record.

Crl. Rev. No. 738 of 2016

This revision is directed against the order dated 24.12.2015 and 19.01.2016, passed by the Juvenile Justice Board and Addl. Sessions Judge, Yamuna Nagar at Jagadhri.

The FIR was registered at the instance of Vijay Kumar whose minor daughter, aged 14 years, had been abducted on 18.11.2015. She was recovered two days later and Section 376 IPC and Section 4 of POCSO Act has been added.

Counsel for the petitioner states that consequent upon the recovery, the girl had made statement that she had gone on her own and rape was not committed and they had applied for bail and the Magistrate had dismissed the application saying that the offence was serious. It was urged that gravity of the offence is not to be considered and the petitioner is also a juvenile and is a student. The counsel urges that the case is fixed for prosecution evidence and the father of the petitioner had died during the trial and the complainant side is also not opposing the prayer.

The complainant side has appeared and states that they have no objection if bail is allowed.

The State counsel opposes the prayer and it was urged that the girl was only 13½ years old and the statement made by the girl is immaterial and the medical evidence suggests that she had been ravished.

A perusal of the MLR (Annexure P-3) shows that the hymen was torn and had healed. The medical evidence suggests that the girl had been ravished.

The application filed before the trial Court was by the lawyer representing the juvenile. There is no social investigation report in favour of the juvenile. The same has not been filed by the petitioner. Without any favourable report in favour of the petitioner it is difficult to come to the conclusion in his favour. No doubt bail has to be granted to a juvenile notwithstanding anything contained in the Code of Criminal Procedure. It is true that the gravity of the offence cannot be the deciding factor but while administering justice, the Court must be conscious of the offence to impart justice not only to the accused but also to the victim. It is a case of rape of a minor. The petitioner is accused of abducting the girl, which unerringly

indicate the criminal proclivities of the petitioner. In such a view the matter, release on bail would defeat the ends of justice. There is no merit in the revision and is dismissed.

30.08.2016

Sunil

(ANITA CHAUDHRY)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No