

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

Crl. Misc. M-43024 of 2017 (O&M)
Date of Decision: November 24, 2017

Aman Sarwar @ Sunny

...Petitioner

Versus

State of Punjab

...Respondent

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. J.S. Grewal, Advocate
for the petitioner.

Mr. A.S. Dhaliwal, DAG Punjab.

JAISHREE THAKUR, J. (Oral)

The instant petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case FIR No.69 dated 30.08.2016, under Section 376 of Indian Penal Code and Sections 3, 4 of POCSO Act (charges framed under Sections 363, 376 of Indian Penal Code and Section 3 of POCSO Act) registered at Police Station City 2 Abohar, Tehsil Abohar, District Fazilka.

Learned counsel for the petitioner contends that the petitioner herein was taken into custody in the aforesaid FIR on 01.09.2016. It is argued that in fact, a reading of MLR of the prosecutrix would reflect that no offence under Section 376 of Indian Penal Code and Sections 3, 4 of POCSO Act has been made out. It is submitted that while dismissing the bail application, the learned Addl. Sessions Judge, Fazilka, has noticed that

in the chemical examiner's report, there is no evidence of rape being committed on the victim and the allegations are mere guesses of her parents. It is also contended that the petitioner is falsely implicated in the present case and statement of material witnesses have been recorded, therefore, the petitioner is entitled to be enlarged on bail.

Per contra, learned counsel appearing on behalf of respondent-State, on instructions from Investigating Officer, opposes the grant of regular bail, while contending that the offences alleged against the petitioner are grievous in nature. However, he does not dispute the fact that out of total 14 witnesses, 05 witnesses have been examined including the father and mother of the prosecutrix and prosecutrix herself.

I have heard learned counsel for the parties.

Since, the trial is likely to take some time and in view of the facts that the petitioner herein has been in custody since 01.09.2016 and statement of material witnesses have been recorded, no useful purpose would be served in keeping the petitioner behind bars. At this stage, without commenting on the merits of the case, the instant petition is allowed and the petitioner is directed to be released on regular bail on execution of adequate personal bond and surety bond to the satisfaction of concerned trial Court/Duty Magistrate.

November 24, 2017
vijay saini

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No