

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

Crl. Misc. M 46063 of 2018 (O&M)

Date of decision: 11.12.2018

Suresh Kumar

...Petitioner

Versus

State of Haryana

...Respondent

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. S.S. Mor, Advocate,
for the petitioner.

Ms. Gaganpreet Kaur, AAG, Haryana.

JAISHREE THAKUR, J. (Oral)

The petitioner herein has filed this petition under Section 439 of the Code of Criminal Procedure for grant of regular bail in case FIR No. 77 dated 14.6.2018, under Sections 363, 366, 376 (2) (n), 506 IPC and Section 6 of the POCSO Act registered at Police Station Fatehabad, District Fatehabad.

Learned counsel for the petitioner contends that the aforesaid FIR is patently false and fabricated one. It is contended that the prosecutrix, who is niece of the complainant, is 22 years old and the question of her being sexually exploited by the petitioner is not sustainable since there are letters available written by the prosecutrix to the petitioner. It is also contended that despite ample opportunities having been granted, the complainant is not coming forward to get her statement recorded. It is also submitted that on medical examination of the prosecutrix no injury mark was found on the body of the prosecutrix and even the FSL report does not

show presence of any semen. It is also contended that an application under Section 319 of the Code of Criminal Procedure has been filed by the paternal uncle of the prosecutrix for summoning remaining persons, who were declared innocent during the investigation and as such the trial is likely to be delayed.

Per contra, Ms. Gaganpreet Kaur, learned AAG, Haryana has contested the bail application while submitting that the charges levelled against the petitioner are of serious nature and as such he does not deserves the concession of regular bail. However, she does not dispute the fact that the prosecutrix is not coming forward to get her statement recorded despite having been summoned thrice. It is also not disputed that an application under Section 319 of the Code of Criminal Procedure has been filed seeking to summon the entire family of the petitioner herein as additional accused.

Without going into the merits of the case and keeping in view the facts that the prosecutrix is not coming forward to get her statement recorded despite ample opportunity having been given and an application under Section 319 of the Code of Criminal Procedure has been filed seeking to summon the entire family of the petitioner herein as additional accused, which is likely to cause delay in the trial, the present petition is accepted and the petitioner is ordered to be released on regular bail on his furnishing bail bonds and surety bonds to the satisfaction of trial Court/Duty Magistrate, concerned.

11.12.2018

prem

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned

Yes

Whether reportable

No