

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

CRM-M-7151-2018

Date of decision:-20.8.2018

Ram Swarth Thakur

...Petitioner

Versus

UT Chandigarh

...Respondent

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Mr.Viraj Gandhi, Advocate
for the petitioner.

Mr.Karan Pathak, Advocate for
Mr.Gautam Dutt, APP, U.T., Chandigarh.

H.S. MADAAN, J.

This petition for regular bail has been filed by petitioner – Ram Swarth Thakur – an accused in FIR No.0001 dated 1.1.2018, under Section 376 IPC and Section 4 of POCSO Act, registered at Police Station North, Chandigarh.

Briefly stated, the facts of the case are that the FIR in this case was lodged by complainant Kiran wife of Kamlesh, resident of House No.10, Sector 11, Chandigarh, who in her statement made to the police stated that her daughter (daughter's name not being mentioned to conceal her identity and referred to as '*the victim*') aged about 17 ½ years had been assisting her in labour work; that on 29.12.2017, the victim left

home and went somewhere without informing her; that despite best efforts, she could not be traced; that on 1.1.2018, the complainant found her near Petrol Pump, Sector 10, Chandigarh and on being asked, she told that she had been illegally confined and raped by the present petitioner Ram Swarth Thakur.

After registration of the formal FIR, the matter was investigated. The accused was arrested in this case on 1.1.2018. He had filed an application for regular bail in the Court of Sessions, which was declined by learned Additional Sessions Judge – cum – Judge, Special Court, Chandigarh vide order dated 1.2.2018, as such, he has approached this Court with the same request.

Notice of the petition was given to respondent – State and counsel representing the State has put in appearance.

I have heard learned counsel for the parties besides going through the record.

The allegations against the petitioner are very grave and serious of committing rape upon a minor girl. The contention that she was a consenting party does not make the things easy for the petitioner for the reason that consent of minor is no consent in the eyes of law. Even otherwise, there is nothing on record to show that the prosecutrix was a consenting party. The trial against the petitioner is going on and his guilt shall be determined during the trial. The trial Court has reported that the trial is likely to be completed within a period of three months. The statement of the prosecutrix and other witnesses examined during the trial have been forwarded. The prosecutrix has supported the case of

prosecution regarding the petitioner/accused committing rape upon her repeatedly. The apprehension expressed by the State counsel that if petitioner is granted bail, there is every likelihood to his absconding and even tampering with the prosecution evidence cannot be brushed aside lightly.

Therefore, finding no merits in the petition, the same stands dismissed.

20.8.2018

Brij

(H.S.MADAAN)**JUDGE****Whether reasoned/speaking : Yes/No****Whether reportable : Yes/No**