

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

CRM-M-5527 of 2019.

Decided on:- March 25, 2019.

Anil.

.....Petitioner.

Versus

State of Haryana.

.....Respondent.

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA.

Present:- Mr. G.C. Shahpuri, Advocate
for the petitioner.

Ms. Priyanka Sadar, A.A.G., Haryana.

HARI PAL VERMA, J.

This is the second petition filed by the petitioner under Section 439 Cr.P.C. for grant of regular bail in FIR No.297 dated 17.05.2018 under Sections 363, 366 and 376 IPC and Section 4 of the Protection of Children from Sexual Offences Act, 2012 (for short, the POCSO Act) registered at Police Station Samalkha, District Panipat.

The earlier petition filed by the petitioner i.e. ***CRM-M-47793 of 2018*** was dismissed as withdrawn vide order dated December 07, 2018 passed by this Court.

The aforesaid FIR was registered on the statement of complainant Sumitra Devi, who is mother of the victim. As per the FIR, on 17.05.2018 daughter of the complainant aged about 16 years, had left the house so as to go to school. She received a telephonic call from the school that her daughter had not come to the school on that day. On search, her

daughter could not be found. However, at about 04.30 p.m., she returned to her house, but she was frightened at that point of time. On questioning, she (prosecutrix) told the complainant that her neighbour Neetu called her at her house, where one boy Pardeep son of Karambir, resident of village Manana was already present there. He forcibly got her (prosecutrix) seated on his motorcycle and threatened that in case she raised any alarm, then her brother and her family would be killed. Thereafter, he took her to a hotel in Panipat, where he forcibly raped her without her consent. She was threatened that in case she disclosed this fact to her family members, then he would kill her and her family members.

Learned counsel for the petitioner has argued that the present case registered at the instance of the complainant is totally false and is based on a concocted story. There is no specific allegation against the petitioner and the allegations are vague and general in nature. Even the name of petitioner does not figure in the F.I.R. The allegation, if any, is against Pardeep, who is younger brother of the petitioner and thereafter, the prosecutrix has made improvement in her statement by stating that the petitioner committed rape upon her without her consent.

He has further argued that during the course of investigation, no Challan has been presented against Neetu, who statedly connived in the crime, which creates a serious doubt on the prosecution story. In her statement under Section 164 Cr.PC, the prosecutrix has stated that she had herself willingly gone with Pardeep younger brother of the petitioner. The

petitioner has been falsely implicated in the present FIR which is an after-thought as his younger brother was minor.

On the other hand, learned State counsel has referred to the statement of prosecutrix under Section 164 Cr.PC and has argued that in fact, it is the petitioner, who has committed rape upon the prosecutrix. The petitioner has suffered a disclosure statement on the basis of which the motorcycle used in the crime has been recovered. During investigation, it has been noticed that the tower-location and the hotel record does prove the involvement of petitioner Anil, but not of Pardeep, rather, Pardeep was named as an accused on the direction of the petitioner with a calculated mind as Pardeep was younger to the petitioner and was a juvenile.

I have heard learned counsel for the parties.

In the earlier petition filed by the petitioner i.e. **CRM-M-47793 of 2018**, on 07.12.2018, following order was passed by this Court:

“After completing his submissions when the Court was not inclined to grant bail, counsel for the petitioner submits that he wants to withdraw the petition.

Dismissed as withdrawn.”

It is the case of the prosecution that the prosecutrix, in her initial version, had named accused Pardeep due to fear and threat given by the petitioner. Moreover, the motorcycle used in the crime was recovered from the petitioner on his disclosure statement. The prosecutrix has named the petitioner specifically. Therefore, this Court finds that no ground is made out for grant of bail to the petitioner.

Accordingly, the present petition, being devoid of any merit, is dismissed.

The observations made hereinabove shall not be construed as an expression of opinion on the merits of the case and the trial Court shall decide the case without being influenced with these observations in any manner.

March 25, 2019
Yag Dutt

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned:	Yes
Whether Reportable:	No