

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

CRM-M No.9550 of 2019
Date of decision: 8th May, 2019

Gurcharan Singh

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. Sandeep S. Majithia, Advocate for the petitioner.
Mr. Baljinder S. Virk, Dy. Advocate General, Haryana
for the respondent/State.

FATEH DEEP SINGH, J.

This regular bail application under Section 439 Cr.P.C. has been filed by accused petitioner Gurcharan Singh who is in judicial custody in case bearing FIR No.424 dated 17.07.2018 (Annexure P1) under Sections 376-A, 376-B, 506 IPC and Section 6 of the Protection of Children from Sexual Offences Act, 2012 pertaining to Police Station Quilla, District Panipat.

The present case has been got registered by father of a minor girl aged around six years. In his complaint, the complainant alleges that friend of the victim was studying with the victim and as per the routine the victim used to accompany her friend who was ferried by one of the family members of the friend and who used to drop her midway and the victim's family would pick her up. On 16.07.2018, the victim confided in

her mother that the present petitioner who happens to be grandfather of the friend of the victim, when the victim was at the house of her friend, had committed penetrative sexual assault on her, and detailed the manner leading to registration of the present case and arrest of the petitioner.

Learned counsel for the petitioner Mr. Sandeep Singh Majithia, Advocate has argued that a bare perusal of the medico-legal examination report mentions that there is no external or internal injury and the hymen was intact, and therefore, improbabilizes the version of the prosecution. It is argued with much vehemence that mother of the victim had illicit relations and which was within the knowledge of the family of the petitioner, who runs a shop in the neighbourhood and therefore, to shut the mouth of the petitioner, he has been falsely implicated and has placed reliance upon '**Yerumalla Latchaiah vs. State of AP**' 2006(9) SCC 713.

Learned State counsel on instructions from ASI Rajender, Police Station Qilla, District Panipat though does not displace the facts canvassed before this Court by learned counsel for the petitioner but has strongly opposed the grant of relief contending that the penetrative sexual assault is by means of finger and therefore, chances of internal or external injury or rupturing of the hymen may not arise, and such an offence certainly falls within the definition of 'rape'.

Appreciating the submissions, admittedly the victim is a small child aged around six years. Her statement under Section 164

Cr.P.C. before the Magistrate is a comprehensive indicator of the abuse of the minor child. The ratio cited is factually at much variance. In view of the heinousness of the offence and seriousness of allegations, this Court does not feel inclined to allow bail to the petitioner. The petition being hopelessly without merit, stands dismissed.

(FATEH DEEP SINGH)
JUDGE

May 8, 2019
rps

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No