

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

CRM-M-10970 of 2019 (O&M)

Decided on:- May 10, 2019.

Mohit.

.....Petitioner.

Versus

State of U.T., Chandigarh.

.....Respondent.

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

Present:- Mr. Ram Pal Verma, Advocate for
Mr. Davinder Lubana, Advocate
for the petitioner.

Mr. Gautam Dutt, A.P.P., U.T., Chandigarh.

HARI PAL VERMA, J. (Oral)

CRM-13125-2019

Prayer in this application filed under Section 482 Cr.PC is for amending the Section of FIR in the head note of the present petition.

For the reasons stated in the application, the same is allowed and the amended head note is taken on record.

CRM-M-10970-2019

The petitioner has filed present petition under Section 439 Cr.P.C. for grant of regular bail in FIR No.359 dated 31.12.2018 under Sections 354, 354-A and 376AB IPC and Section 6 of the Protection of Children from Sexual Offences Act, 2012 (for short, the POCSO Act) registered at Police Station Mauli Jagran, Chandigarh.

Learned counsel for the petitioner has argued that from bare perusal of the contents of the FIR, no offence under Section 376AB IPC is

made out and further the matter has been compromised between the parties for which the petitioner has filed a petition i.e. ***CRM-M-11529 of 2019*** seeking quashing of the aforesaid FIR on the basis of compromise, which is coming up for hearing on 27.05.2019. The petitioner is in custody since 31.12.2018 and trial will take sufficient long time. The offence of rape has not been committed upon the prosecutrix, but still the offence under Section 376AB IPC has been incorporated.

On the other hand, learned APP appearing for U.T. does not dispute the custody. However, on instructions from SI Rohitash Kumar Yadav, SHO Police Station Mauli Jagran, he submits that after registration of the FIR, the offence under Section 376AB IPC and Section 6 of the POCSO Act have been added and considering the nature of allegations, charge has been framed against the petitioner. Therefore, the petitioner does not deserve the concession of bail.

I have heard learned counsel for the parties.

Considering the fact that the petitioner is in custody since 31.12.2018 and in the FIR, there is no allegation that he committed rape upon the prosecutrix coupled with the fact that the matter has been compromised between the parties and the trial is not likely to be concluded in near future, this Court finds that the petitioner deserves to be admitted on bail.

Therefore, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing adequate bail and surety bonds to the satisfaction of learned trial Court.

However, it is made clear that in case the petitioner influences the prosecution witnesses in any manner directly or indirectly, the prosecution shall be at liberty to seek cancellation of his bail.

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.

May 10, 2019
Yag Dutt

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned:	Yes
Whether Reportable:	No