

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

CRM-M-11389 of 2019.

Decided on:- April 09, 2019.

Satnam Singh @ Sonu.

.....Petitioner.

Versus

State of Punjab.

.....Respondent.

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

Present:- Mr. H.S. Bhullar, Advocate
for the petitioner.

Mr. Rana Harjasdeep Singh, D.A.G., Punjab.

HARI PAL VERMA, J.

Prayer in this petition filed under Section 439 Cr.P.C. is for grant of regular bail to the petitioner in FIR No.90 dated 26.04.2018 under Sections 376 and 506 IPC and Section 5/6 of the Protection of Children from Sexual Offences Act, 2012 (for short, the POCSO Act) registered at Police Station City Faridkot.

The aforesaid FIR was registered at the behest of prosecutrix on the allegations that her father is daily wage labourer and when her father used to go for work in the morning, the petitioner used to enter their house forcibly and to commit rape upon her against her will. He also used to give threat that in case she will disclose this fact to her father, he would get her killed by

some people. Out of fear, she kept on tolerating all this and did not inform anybody, but he continued to commit rape under threat at a number of times for the last six months.

On 25.04.2018 at about 02.00 P.M., the petitioner again came to the house of the prosecutrix and threatened her that if she will disclose it to anybody, he shall bring some persons to her house. In the evening at about 08.30 P.M., when she was cleaning utensils, the petitioner, in drunk condition, came there and told her to tell her father that the prosecutrix wanted to marry the petitioner or he (petitioner) shall bring some boys to her house. He forcibly entered the house and started giving beatings to her father. Hearing commotion, many people gathered there and the petitioner ran away from the spot.

Learned counsel for the petitioner has argued that on the basis of allegations levelled in the FIR, neither the offence under Section 376 IPC nor the offence under Section 5/6 of the POCSO Act is made out against the petitioner as the allegations do not fulfil the ingredients of Section 375 IPC. The Challan has been presented in the case and the statements of prosecutrix and her father have already been recorded by the trial Court. There is no apprehension of absconding of the petitioner from the trial or tampering with the evidence. The petitioner is in custody for the last about 11 months as he was arrested in the case on 02.05.2018.

On the other hand, learned State counsel has argued that the petitioner had sexually assaulted the prosecutrix and while appearing in the witness box as PW2, the prosecutrix has supported the case of the

prosecution. She has deposed that the petitioner had forcibly committed rape upon her and rather threatened her that in case she discloses this fact to anybody, she would be eliminated. She is a minor girl of 14 years of age as she was born on 04.10.2004. The petitioner had also given beatings to the father of prosecutrix on 25.04.2018 at about 08.30 P.M.

He has further argued that the FSL report in the case has been received on 04.07.2018 and on the basis thereof, human semen matches with that of the petitioner.

Having heard learned counsel for the parties, this Court finds that the allegations against the petitioner are serious in nature. The prosecutrix is a minor girl of about 14 years of age. In her statement under Section 164 Cr.PC and while appearing before the trial Court as PW2, she has supported the case of the prosecution. The DNA report has been received from the FSL and it does reflect that human semen and blood was detected on Ex.C-1 and C-2 (source: clothes of the prosecutrix) and the male DNA profile present on the clothes of the prosecutrix (source: Ex.C-1 and C-2) belongs to the petitioner (source: Ex.-D).

Thus, when the DNA profile has proved that the human semen on the clothes of the victim matches with that of the petitioner, this Court finds that no ground is made out for grant of bail to the petitioner. The prosecutrix is about 14 years of age.

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.

April 09, 2019
Yag Dutt

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned:	Yes
Whether Reportable:	No