

215.

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

CRM-M-12343-2019

Date of decision:30.05.2019

KANHIYA ALIAS BHOLA

... Petitioner

versus

STATE OF HARYANA

.... Respondent

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr. Ram Bilas Gupta, Advocate, for the petitioner.

Ms. Priyanka Sadar, AAG, Haryana.

HARI PAL VERMA, J. (Oral)

Prayer in the present petition filed under Section 439 Cr.P.C. is for grant of regular bail to the petitioner in case FIR No.42 dated 28.07.2018 registered under Sections 342, 506 of IPC and Sections 6/14 of Protection of Children from Sexual Offences Act, 2012 at Women Police Station, Sector 21-A, Faridabad.

Counsel for the petitioner states that the petitioner is in custody since 28.07.2018. There is variation in the statements of the prosecutrix which include the FIR version, the statement made under Section 164 Cr.P.C. and her statement before the Child Welfare Committee. He refers to the Medico Legal Report (Annexure P-3) to contend that as per the medical report, the hymen of the prosecutrix was found intact and no mark of external injury was seen on her person, despite the fact that the medical was conducted after about 2 months.

Learned State counsel, on instructions from ASI Shahid Ahmed,

has argued that the petitioner along with his brother Rahul have committed

rape upon the prosecutrix who was about 13 years of age and the co-accused Rahul circulated the pictures of the prosecutrix and, therefore, he is not entitled for grant of bail.

I have heard learned counsel for the parties.

Petitioner is in custody since 28.07.2018. The trial in the case will take sufficient long time. The medical report (Annexure P-3) does suggest that hymen of the prosecutrix was intact and there was no mark of external injury seen on her person. There is variation in the statement of the prosecutrix in the FIR, under Section 164 Cr.P.C. and the statement made before the Child Welfare Committee. Thus, the culpability of the petitioner is yet to be established during trial, therefore, this Court deems it appropriate to admit the petitioner on bail.

Accordingly, the present petition is allowed and the petitioner is admitted on regular bail subject to his furnishing bail bonds/surety bonds to the satisfaction of trial Court.

It is made clear that the petitioner shall not extend any threat and shall not influence any prosecution witnesses in any manner directly or indirectly.

The observations made hereinabove shall not be construed as an expression on the merits of the case and the trial court shall decide the case on the basis of available material.

(HARI PAL VERMA)
JUDGE

30.05.2019
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Whether speaking/reasoned?	Yes/No
Whether reportable?	Yes/No