

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

221

CRM-M-15256-2019

Rinku

.....Petitioner

Versus

State of Haryana

.....Respondent

221(2)

CRM-M-17465-2019

Ajay

.....Petitioner

Versus

State of Haryana

.....Respondent

Date of Decision:29.05.2019

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

**Present: Mr. U.K. Agnihotri, Advocate and
Mr. Ashish Grewal, Advocate,
for the petitioner(s).**

Mr. Manish Bansal, D.A.G., Haryana.

HARI PAL VERMA, J.(Oral)

This order shall dispose of two petitions i.e. CRM-M-15256-2019, titled as **Rinku Versus State of Haryana** and CRM-M-17465-2019, titled as **Ajay Versus State of Haryana**.

Prayer in these petitions filed under Section 439 Cr.P.C. is for grant of regular bail to the petitioners in FIR No.0065 dated 03.10.2018 under Section 6 of the POCSO Act read with Section 506 IPC, registered at Women Police Station, Yamuna Nagar.

Learned counsel for the petitioner(s) have argued that the petitioners are in custody since 04.10.2018. The prosecutrix is about 18 years of age, but her age has wrongly been mentioned as 17 years in the FIR (Annexure P-1), so as to attract the provisions of the POCSO Act. They have further argued that the victim who has been examined in the case, has not supported the case of the prosecution and has been declared hostile. Similarly, mother of the victim examined in the case has also not supported the case of the prosecution and has been declared hostile.

Learned State Counsel, on instructions from ASI Jaswinder Kaur, submits that the allegations against the petitioners are serious as 17 years old girl became pregnant because of rape committed upon her by the petitioners. He further states that sample of the accused has been sent for DNA test and the prosecution has moved an application so as to send the sample of the victim for DNA comparison.

Heard learned counsel for the parties.

Considering the fact that the petitioners are in custody since 04.10.2018 and neither the prosecutrix nor her mother have supported the case of the prosecution, at this stage, culpability of the petitioners is yet to be established during the course of trial.

Accordingly, without observing anything on merits of the case, but for the simple reason that the victim and the complainant have not supported the case of the prosecution, the present petitions are allowed and the petitioners are admitted on regular bail, subject to furnishing of their bail bonds/surety bonds to the satisfaction of trial Court.

However, the observations made hereinabove shall not be

construed as an expression on the merits of the case and the trial Court shall proceed with the trial independently without being influenced by the order of bail passed by this Court.

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

The prosecution is at liberty to pursue the application so as to seek sample of the child for DNA comparison.

In case, the DNA report is found positive, the prosecution shall be at liberty to seek cancellation of bail of the petitioners.

May 29, 2019
seema

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No