

221.

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

CRM-M-16140-2019

Date of decision:17.07.2019

KAMAL & ANR.

... Petitioners

versus

STATE OF HARYANA

.... Respondent

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr. Bijender Dhankhar, Advocate,
for the petitioners.

Ms. Gaganpreet Kaur, 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 petitioners, pending trial, in case FIR No.3 dated 19.01.2019 registered under Sections 342, 363, 506 of IPC and Sections 10/17 of Protection of Children from Sexual Offences Act, 2012 at Police Station Women Assandh, District Karnal.

The aforesaid FIR was registered at the behest of Rajinder. As per FIR on 18.01.2019 at about 7 o'clock in the evening, his daughter-Neha had gone to the shop of Kali to bring some items, but thereafter when she did not return for about 10/15 minutes, Pushpa (mother of Neha) informed the complainant and family members that Neha had gone to the shop of Kali to bring some items and has not come home till now. Thereafter, efforts were made to search Neha in the nearby and missing report was lodged.

After sometime, Neha was found in unconscious condition near the vacant

She was taken to the Civil Hospital by noticing her serious condition and after about ½ hour, Neha gained consciousness. She disclosed the entire episode to the complainant stating that the petitioners took her inside the vacant house by pressing her mouth and closed the door from inside and when she tried to cry, then both the brothers said that in case she wants protection of life, then she should remain silent, otherwise, they will kill her. Thereafter, the petitioners tried to commit bad acts with her and she became unconscious.

Counsel for the petitioners has argued that the petitioners are in custody since 19.01.2019 and there is no allegation of any rape having been committed on the person of the prosecutrix. He has further argued that despite having been granted three opportunities, the prosecutrix is not coming forward to depose, for which, the trial Court has issuedailable warrants. Thus, trial in the case will take sufficient long time to conclude.

Learned State has pointed out that the prosecutrix has refused for medical examination, however, she states that the petitioners are not entitled for grant of bail as they have tried to commit rape upon a minor girl, aged 13 years.

I have heard learned counsel for the parties.

Considering the fact that the prosecutrix has refused for medical examination and the trial in the case will take sufficient long time, this Court deem it appropriate to admit the petitioners on bail.

Accordingly, without observing anything on the merits of the case, the present petition is allowed and the petitioners are admitted on regular bail subject to their furnishing bail bonds/surety bonds to the satisfaction of trial Court.

Considering the nature of allegation and the fact that the prosecutrix and the present petitioners-accused are staying in the same village, it is directed that the petitioners shall not reside in the same village where the prosecutrix is staying till she is examined in the case.

The petitioners shall not influence the witnesses directly or indirectly in any manner and in case, it is found that the petitioners are trying to influence the witnesses, the prosecution shall be at liberty to seek cancellation of their bail.

(HARI PAL VERMA)
JUDGE

17.07.2019
sanjeev

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