

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

CRM-M-52870 of 2018.

Decided on:- March 12, 2019.

Sanjiv Babbar.

.....Petitioner.

Versus

State of Haryana.

.....Respondent.

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

Present:- Mr. Kamal Chaudhary, Advocate
for the petitioner.

Ms. Priyanka Sadar, A.A.G., Haryana.

HARI PAL VERMA, J.

The petitioner has filed present petition under Section 439 Cr.P.C. for grant of regular bail in FIR No.736 dated 08.12.2017 under Section 506 IPC and Section 6 of the Protection of Children from Sexual Offences Act, 2012 (for short, the POCSO Act) registered at Police Station SGM Nagar, District Faridabad.

The aforesaid FIR was registered at the behest of complainant Mamta, who is wife of the petitioner and mother of the victim. As per the FIR, earlier also, an FIR No.539 dated 17.09.2016 under Sections 354 and 506 IPC as well as Section 10 of the POCSO Act was registered against the petitioner at Police Station SGM Nagar, Faridabad, wherein the present complainant had made similar allegations against him. However, on account of pressure from family and society, the complainant made a statement in favour of her husband (petitioner herein) which led to acquittal of the

petitioner. Thereafter, the parties started residing together. Though for some time, the petitioner behaved well with the complainant, but on 09.11.2017 at about 04.00 A.M., the petitioner sexually assaulted the prosecutrix (daughter of the complainant), aged about 13 years. The complainant, who was present in the same room, woke up, but the petitioner fled away from the scene. Thereafter, he extended threat to the complainant not to disclose the incident to anybody else.

Learned counsel for the petitioner has argued that the very FIR is motivated and false. Earlier also, similar FIR was registered at the behest of the complainant, which led to acquittal of the petitioner. The present is a second FIR on similar allegations. The petitioner has differences with the complainant-wife and, therefore, she has tutored the prosecutrix against the petitioner. Thus, the complainant is using her daughter as a tool against him. In case the petitioner had a bad eye on the daughter of the complainant, she would not have compromised the matter with the petitioner in the earlier F.I.R.

On the other hand, learned State counsel has argued that the allegations against the petitioner are serious. The petitioner is father of the victim and has sexually assaulted her. When the victim raised the alarm, he fled away from the scene and thereafter caused threat of life to the victim and the complainant. Therefore, he is not entitled to bail.

I have heard learned counsel for the parties.

Vide order dated January 10, 2019 passed by this Court, the petitioner was directed to place on record the statement of the prosecutrix

recorded in the trial. Thereafter, similar direction was given to the State counsel to place on record the statement of the prosecutrix. Today, copy of the statement of prosecutrix has been produced in Court. Her statement reveals that while appearing before the trial Court, she has supported the prosecution version. In her cross-examination, the prosecutrix has specifically stated that earlier also, an FIR was registered against the petitioner, but in that case, she has deposed in favour of the petitioner, who happens to be her father, due to pressure from the relatives and society. Thus, this Court does not find any ground to admit the petitioner on bail.

The argument of learned counsel for the petitioner that in earlier FIR, the petitioner was acquitted of the charge levelled against him, is of no help to him in the present case as the matter in that case was compromised. The prosecutrix is of tender age and no mother would like to use her own daughter as a tool so as to settle score with her husband.

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.

March 12, 2019
Yag Dutt

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned:	Yes
Whether Reportable:	No