

218.

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

CRM-M-24747-2019 (O&M)

Date of decision:05.07.2019

DEEPAK

... Petitioner

Versus

STATE OF HARYANA

.... Respondent

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Ms. Rosi, Advocate,
for the petitioner.

Ms. Gaganpreet Kaur, AAG, Haryana.

HARI PAL VERMA, J. (Oral)

Petitioner-Deepak son of Khem Singh has filed the present petition under Section 439 Cr.P.C. for grant of regular bail in case FIR No.123 dated 21.11.2018 registered under Sections 365, 376, 506, 120-B of IPC and Section 4 of Protection of Children from Sexual Offences Act, 2012 at Women Police Station, Palwal, District Palwal.

The aforesaid FIR was registered at the behest of the prosecutrix with the allegations that on 05.11.2018, the petitioner, who is brother of Mamta wife of Giani, resident of Mitrol, had come to her house and taken her away while saying that his sister Mamta has called her. The prosecutrix went with the petitioner. However, on reaching Mamta's house, she did not find Mamta present there. The other boy Deepak son of Tota Ram was present there. The petitioner called the prosecutrix and took her inside the room, whereas Deepak, the other co-accused, closed the door from

forcibly on bed and committed rape upon the prosecutrix under the threat that in case she makes noise, she will be killed. He further threatened that in case she discloses this fact to anyone, he will kill all family members of the prosecutrix. Accordingly, the prosecutrix went to her house and did not disclose this fact to anyone. However, on 20.11.2018 at about 10:00 AM when the prosecutrix had gone to the school for giving lunch, the petitioner met the prosecutrix and started forcing upon her and took her away while capturing her hand. In the meanwhile, her uncle Gangaram son of Gansi Ram, who was coming on tractor, seen the petitioner. Thereafter, the petitioner fled away after living the prosecutrix.

Counsel for the petitioner has argued that the petitioner has falsely been implicated in the case. He is in custody since 22.11.2018. Investigation is complete, challan has been presented and nothing is to be recovered. The prosecutrix has been medico legally examined and rape was not established as there was no fresh injury either external or internal on the person of prosecutrix. In her statement under Section 161 Cr.P.C., there is only reference to the incident dated 05.11.2018 and no such statement is there for the incident which allegedly took place on 22.11.2018.

Counsel for the petitioner has further argued that the co-accused Deepak has been admitted on ad-interim bail by this Court vide order dated 19.03.2019 in ***CRM-M-4534-2019*** titled as ***Deepak Versus State of Haryana***.

Learned State counsel, on instructions from ASI Anita, states that the prosecutrix is about 16 years of age. There are allegation of rape against the petitioner. The petitioner cannot take advantage of the fact

medico legally examined on 21.11.2018 i.e. after about 16 days of the incident, the hymen was found ruptured. The petitioner has committed rape on 05.11.2018 and, therefore, injury if any must be healed by that time.

I have heard learned counsel for the parties.

The prosecutrix is 16 years of age. There are specific allegations of rape having been committed by the petitioner on the person of the prosecutrix. The co-accused was admitted on ad-interim bail by this Court for the reason that there is no allegation against him for the commission of rape whereas there are allegations against the petitioner.

The allegation against the petitioner being serious in nature, no case for grant of regular bail is made out.

Dismissed.

(HARI PAL VERMA)
JUDGE

05.07.2019

sanjeev

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