

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

CRM-M-25692-2019

Date of decision:12.9.2019

BRAHAM SINGH

.....Petitioner

Versus

STATE OF HARYANA

.....Respondent

CORAM : HON'BLE MR.JUSTICE GURVINDER SINGH GILL

Present: Mr. Rakesh Gupta, Advocate
for the petitioner.

Ms. Aditi Girdhar, AAG, Haryana.

GURVINDER SINGH GILL, J. (ORAL)

1. The petitioner seeks grant of regular bail in case registered vide FIR No.41 dated 10.2.2019 under Sections 354-A, 354-B, 450, 506 of Indian Penal Code, Section 25 of Arms Act and Section 8 of POCSO Act (Section 376 IPC & Section 4 of POCSO Act added later on) registered at Police Station Chand Hut, District Palwal.
2. The FIR was registered at the instance of the prosecutrix herself wherein she alleged that on 10.2.2019 when she was sleeping in her room, the petitioner Braham Singh entered into her room and while brandishing revolver started teasing her with evil intentions and attempted to outrage her modesty. When she raised alarm her aunt namely Anita came there

and rescued her.

3. Learned counsel for the petitioner has submitted that a false FIR has been lodged against the petitioner and that in any case even as per the FIR no offence under Section 376 IPC or Section 4 of POCSO Act is made out. Learned counsel has further stated that the statement of the prosecutrix and also of the Doctor has been recorded and that PW-6 Dr. Preeti has categorically stated that the victim had refused to get herself medically examined while stating that she has not been raped. PW-6 had further stated that mother of the prosecutrix was also present along with her at that time and she had also signed the statement made by the prosecutrix.
4. Opposing the petition, learned State counsel has submitted that since the petitioner is specifically named in the FIR, no case for grant of bail is made out. Learned State counsel upon instructions from SI Kapoor Singh has however informed the fact that prosecutrix was not medically examined on 10.2.2019 and that on 11.2.2019 she was medically examined and no external injury was found on the person of the prosecutrix.
5. Having considered rival contentions addressed before this Court and in view of the fact that the prosecutrix and also Doctor have already been examined and while bearing in mind that the petitioner has been in custody since last about 7 months and also that it will be debatable as to whether offence under Section 376 IPC would be attracted in the present case or not, in my opinion further detention of the petitioner is not justified. The petition, as such, is accepted and it is ordered that petitioner be released on bail on his furnishing bail bonds/surety bonds to

the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate, concerned.

6. It is, however, clarified that none of the observations made above shall be construed to be an expression on merits of the main case.

(GURVINDER SINGH GILL)
JUDGE

12.9.2019
Gaurav Sorot

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