

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

CRM-M-32067-2019

Date of decision:30.09.2019

RAKESH KUMAR

.....Petitioner

Versus

UNION TERRITORY, CHANDIGARH

.....Respondent

CORAM : HON'BLE MR.JUSTICE GURVINDER SINGH GILL

Present: Mr. Phool Chand Dhiman, Advocate &
 Mr. Deepak S. Saini, Advocate
 for the petitioner.

Ms. Ashima Mor, APP, U.T. Chandigarh.

GURVINDER SINGH GILL, J. (ORAL)

1. The petitioner seeks grant of regular bail in case registered vide FIR No.1 dated 1.1.2019 under Section 376-AB IPC and Section 6 of POCSO Act, Police Station 36 Chandigarh.

2. The FIR was lodged at the instance of Sameena mother of victim wherein it has been alleged that on 30.12.2018 at about 2:30 p.m. while she was doing work in her house, her children were playing in street outside the house. It is alleged that suddenly she heard screams of her daughter but when she went outside she could not see her. The screams were heard

coming from House No.1441 which was locked. When the complainant pushed the door and opened it, she saw her daughter whose clothes had been removed and the accused was also present there, who was nude and he tried to insert finger in private parts of her daughter.

3. Learned counsel for the petitioner submits that he has falsely been implicated in the present case and that the falsity of the case would be evident from the fact that the complainant refused to get the victim medically examined and that during the course of her cross-examination she had virtually given a clean chit of the petitioner. Learned counsel in this context has referred to cross-examination (Annexure P-2), the relevant extract of which reads as follow:-

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“I have made the complaint against accused on the wrong impression that accused had done something with my daughter in the room, but later on I came to know that nothing was done by the accused and for the said reason I had not given consent for her medical examination.”

4. Opposing the petition, learned State counsel has submitted that since the petitioner is specifically named in the FIR and the complainant even in her statement recorded under Section 164 Cr.P.C. has reiterated the allegations as levelled in the FIR, no case for grant of bail is made out.
5. I have considered rival contentions addressed before this Court. Given the fact that the complainant has already been examined and that during the course of cross-examination she has virtually resiled and that petitioner till date has been behind bars since the last about 9 months, no fruitful purpose would be served by further detaining the petitioner behind bars. 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.

30.09.2019
Gaurav Sorot

(GURVINDER SINGH GILL)
JUDGE

Whether reasoned / speaking? Yes / No

Whether reportable? Yes / No