

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

287

CRM-M-34137-2019

Date of Decision:29.08.2019

Rajesh

.....Petitioner

Versus

State of Haryana

.....Respondent

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

Present: Mr. J.P. Sharma, Advocate,
for the petitioner.

Mr. Vikramjit Singh, Addl. AG, Haryana.

HARI PAL VERMA, J.(Oral)

Prayer in this petition filed under Section 439 Cr.P.C. is for grant of regular bail to the petitioner in FIR No.51 dated 17.05.2019 under Sections 323, 506, 365, 34 IPC and Section 8 of the Protection of Children from Sexual Offences Act, 2012, registered at Women Police Station, Narnaul, District Mahendergarh.

Learned counsel for the petitioner has argued that the petitioner is in custody since 29.05.2019. As per FIR registered at the behest of the prosecutrix who is a 8th class student, on 13.05.2019, when the prosecutrix has gone to attend the marriage of her matrimonial uncle Amit to be solemnized on 15.05.2019, on 17.05.2019 at about 01.30 AM, when she had gone out of the street of the house so as to urinate, suddenly accused Vikram and the present petitioner Rajesh pressed her mouth and forcibly

took her in their house with bad intention. They started molesting her. On

raising alarm, wife of Vikram, namely, Kajal and his sister Ravina came at the spot and they started man-handling with the prosecutrix. He refers to the certificate issued by the Principal, Govt. Senior Secondary School, Jailaf (Annexure P-2) to substantiate that he is a student and his date of birth is 24.04.2001 and because of FIR registered and the custody, his name has been struck off from the school register on 16.05.2019. He further states that there is no allegation against the petitioner that he has committed rape upon the prosecutrix or aggravated penetrated sexual assault with her. He refers to the statement of the prosecutrix recorded under Section 164 Cr.P.C. to contend that there is no such allegation of sexual assault and trial in the case is not likely to be concluded in the near future. Even prosecutrix was not medically examined. His career would be spoiled if he is not admitted on bail.

Learned State Counsel, on instructions from SI Krishna Devi, submits that challan has been presented, charges have been framed in the case and there are total 13 witnesses cited by the prosecution and the next date before the trial is fixed for 03.10.2019.

Heard learned counsel for the parties.

Admittedly, the learned State Counsel has not been able to controvert the fact that for the alleged incident the prosecutrix was never medically examined. Therefore, culpability of the petitioner is yet to be established during the course of trial. The petitioner is about 18 years of age and a student is in custody since 29.05.2019. He is at a stage where he can be reformed. The trial in the case is not likely to be concluded in the near future. Therefore, this Court finds that the petitioner deserves to be admitted on bail.

Accordingly, the present petition is allowed and the petitioner is admitted on regular bail, subject to furnishing of his bail bonds/surety bonds to the satisfaction of trial Court.

However, the observations made hereinabove shall not be construed as an expression on the merits of the case and the trial Court shall proceed with the trial independently without being influenced by the order of bail passed by this Court.

It is made clear that the petitioner shall not extend any threat and shall not try to influence any prosecution witnesses directly or indirectly in any manner. He will not reside in the vicinity where the prosecutrix is residing. In case, it is found, the prosecution would be at liberty to seek cancellation of his bail in this case.

August 29, 2019
seema

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No