

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

CRM-M-39517 of 2019.

Decided on:- November 14, 2019.

Sanjay.

.....Petitioner.

Versus

State of Haryana.

.....Respondent.

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

Present:- Mr. Rohit Mittal, Advocate
for the petitioner.

Ms. Gaganpreet Kaur, A.A.G., 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.37 dated 26.04.2019 under Section 363 IPC and Section 6 of the Protection of Children from Sexual Offences Act, 2012 registered at Women Police Station, Narnaul, District Mahendergarh.

The aforesaid FIR was registered at the behest of the mother of prosecutrix, aged about 16 years. As per the FIR, on 25.04.2019 at about 04.00 A.M. in the morning, daughter of the complainant had been kidnapped and efforts were made to trace her. When she (prosecutrix) returned back, she told the complainant that petitioner Sanjay had enticed her along with two other boys and they all committed rape upon her one after the other.

Learned counsel for the petitioner has argued that the petitioner is in custody since 26.04.2019. Apart from the fact that the other two accused have been found innocent during the investigation, the medical evidence does not support the case of the prosecution. There was no mark of injury, either internal or external, on the person of the prosecutrix. No prosecution witness has been examined in the case so far.

Learned State counsel, on instructions from ASI Suresh Kumari, does not dispute the custody. She has produced the copy of FSL report dated 02.07.2019, which is taken on record.

I have heard learned counsel for the parties.

As per the FSL report, the DNA profile of seminal stains on the underwear of the prosecutrix is not matching with the DNA profile of the petitioner. The relevant part of the said report is reproduced as under:

“The Autosomal STR analysis indicates that DNA profile of seminal stains on source of item No.1A (Underwear) is not matching with the DNA profile of Sanjay (Source of item No.2) and conclusively proves that they are of different biological origin.”

In view of the fact that no prosecution witness has been examined in the case and at this stage, FSL report does not support the case of the prosecution, this Court finds that the petitioner deserves to be admitted on bail.

Accordingly, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing adequate bail and surety bonds to the satisfaction of learned trial Court.

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.

November 14, 2019
Yag Dutt

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned:	Yes
Whether Reportable:	No