

**In the High Court for the States of Punjab and Haryana
At Chandigarh**

CRM-M-42240-2019 (O&M)
Date of Decision:-30.10.2019

Ram Parvesh

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Kunal Dawar, Advocate for the petitioner.

Mr. Ashok Singh Choudhary, Addl. Advocate General, Haryana.

GURVINDER SINGH GILL, J.(Oral)

1. The petitioner has approached this Court seeking grant of regular bail in respect of a case registered vide FIR No.265 dated 13.7.2019 at Police Station Matlauda, District Panipat, Haryana under Sections 376(2)(n) and 506 of Indian Penal Code and under Section 6 of POCSO Act. Although offences under Sections 376(2)(n) and 506 of Indian Penal Code and under Section 6 of POCSO Act were deleted and offences under Sections 376 and 511 of Indian Penal Code and Section 10 of POCSO Act had been added, but subsequently even offence under Sections 376/511 of Indian Penal Code was deleted and offence under Section 354 IPC has been added.
2. Mr. Yashveer Kharb, Advocate has put in appearance on behalf of the complainant and has filed *Vakalatnama*, which is taken on record.

3. The FIR was lodged at the instance of Shanti Swaroop, wherein it has been alleged that his daughter had been taking tuitions from the petitioner. It is alleged that since his daughter appeared to be in depression since the last couple of days, upon inquiry made by his wife, his daughter informed the complainant's wife that the petitioner had been committing rape upon her since the last about six months and had also been threatening her.
4. The learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in the present case and the falsity would be evident from the fact that when the statement of the prosecutrix was recorded in terms of Section 164 Cr.P.C. (Annexure P-2), she stated that only an attempt had been made by the petitioner to rape her and she did not state that she had ever been raped. The learned counsel has also referred to application (Annexure P-3) submitted by the police for medical examination of the prosecutrix, wherein the prosecutrix refused to get herself medically examined while specifically stating that no rape had been committed upon her. The learned counsel has further submitted that upon investigation of the matter, the offences in respect of Section 376 IPC and under Section 6 of POCSO Act have been dropped and challan has been presented only in respect of offence under Section 354 IPC and for offence under Section 10 of POCSO Act.
5. Opposing the petition, the learned State counsel assisted by the learned counsel for the complainant, has submitted that since serious allegations of rape have been levelled in the FIR, no case for grant of bail is made out. It has, however, been informed that the petitioner has been behind bars since the last about 3 1/2 months and that challan already stands presented.

6. Having regard to the fact that challan already stands presented and that offence under Section 376 IPC and under Section 6 of POCSO Act have been deleted and that, till date, not even a single prosecution witness has been examined, further detention of the petitioner will not serve any useful purpose. The petition, as such, is accepted and it is ordered that the 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.

30.10.2019

pankaj

**(Gurvinder Singh Gill)
Judge**

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No