

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

CRM-M-43386-2019

Date of decision:18.10.2019

RAVI

.....Petitioner

Versus

STATE OF HARYANA

.....Respondent

CORAM : HON'BLE MR.JUSTICE GURVINDER SINGH GILL

Present: Mr. Ashish 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.410 dated 6.12.2018 under Section 6 of POCSO Act, Police Station City Gurugram, District Gurugram.
2. The FIR in question was lodged at the instance of Mala wherein it has been stated that she along with her husband is living in a joint family and that his husband are 5 brothers in all. It is stated that elder brother of her husband (Jeth) namely Charan Singh is living in adjoining room with his family, who is having one son and one daughter namely Vandana. It is alleged that about 6-7 months ago Vandana came out of her room while crying loudly and she saw that her '*Paijami*' (Trouser) was partially

removed from her legs and she stated that her uncle Ravi had committed wrongful act with her. When the complainant went inside the room she saw Ravi whose trouser had been taken off. Although the complainant apprised her husband about the matter but no complaint was lodged. Thereafter, the complainant on account of her own pregnancy came to her matrimonial home and later Vandana became ill whom she got admitted in hospital. It is thus alleged that Vandana had been raped by Ravi. It is further the case of prosecution that on 5.12.2018 upon receipt of information by the police about the fact that Vandana had been raped by her uncle and was admitted in hospital, the police went to the hospital but the victim did not survive and expired on 5.12.2018.

3. Learned counsel for the petitioner has submitted that he has falsely been implicated in the present case on account of some dispute between the petitioner and the family of the complainant, as would be evident from the cross-examination of the complainant wherein she has admitted the said fact during the course of cross-examination. The relevant extract from the cross-examination reads as follows:-

XXXXX

“It is also correct that there was a quarrel between me and accused Ravi before the rape incident. It is also correct that I have been called by police several time in respect of the quarrel taken place between me and mother of accused but case was not registered in respect of the quarrel.”

4. Learned counsel has further submitted that in any case as per testimony PW-7 Dr. Monika Bhukar, the cause of death as per medical report was

persistent diarrhea with acute encephalitis syndrome with septic shock.

5. During the course of cross-examination, PW-7 Dr. Monika Bhukar stated categorically to the following effect:-

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“The death had occurred in ordinary course of nature. It is correct that at the time of admission in hospital there was no history of committing of any sexual wrong with the deceased.”

6. Learned counsel has further submitted that in any case the parents of the victim who have also been examined as PW-8 & PW-9 had virtually given a clean chit to the petitioner and had not supported the case of prosecution at all and under these circumstances the petitioner who has been behind bars since last about 11 months is entitled to be released on bail.
7. Opposing the petition, learned State counsel has submitted that the complainant has supported the case of prosecution during her examination-in-chief, no case for grant of bail is made out.
8. I have considered rival contentions addressed before this Court. Keeping in view the fact that parents of victim have not supported the case of prosecution and also that the complainant during cross-examination had admitted that there had been some quarrel between her and the petitioner earlier, it will be debatable as to whether the testimony of the complainant inspires confidence or not. Since the petitioner as on date has been behind bars since last more than 11 months and conclusion of trial, in its normal course, is likely to take some time, in my opinion, 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.

9. 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

18.10.2019
Gaurav Sorot

Whether reasoned / speaking? **Yes / No**

Whether reportable? **Yes / No**