

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

CRM-M-44399 of 2019.

Decided on:- November 22, 2019.

Parveen Rajput.

.....Petitioner.

Versus

State of Haryana.

.....Respondent.

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

Present:- Mr. Pawan Kumar, Senior Advocate with
Mr. Surya Kumar, Advocate
for the petitioner.

Ms. Gaganpreet Kaur, A.A.G., Haryana.

HARI PAL VERMA, J.

Prayer in this petition filed under Section 439 Cr.P.C. is for grant of regular bail to the petitioner in FIR No.553 dated 19.09.2018 under Sections 506, 120-B and 376(2)(n) IPC as well as Sections 4 and 6 of the Protection of Children from Sexual Offences Act, 2012 registered at Police Station Sector-5, Gurugram.

The aforesaid FIR was registered at the behest of Virender Sharma father of the prosecutrix. As per the FIR, the victim is about 15 years of age. Her date of birth is 14.03.2003 and she is a student of 10th class. She had been taking coaching classes since June 23, 2017. In the same coaching classes, one another girl named Shaily Aggarwal was also taking coaching along with her. The complainant noticed that there was a scar mark on the left

side cheek of the prosecutrix. When the mother of the prosecutrix enquired from her regarding the scar mark, initially, she hesitated to answer. However, when the mother of the complainant asked her again politely, she disclosed that for the last one year, one boy, namely, Parveen (petitioner herein) used to stand outside the coaching centre. Shaily Aggarwal, who is friend of the prosecutrix asked her that she will get her friendship with the petitioner as he is her (Shaily Aggarwal's) friend as well. However, the prosecutrix declined it and said that she is not interested to have friendship with any boy, but with the passage of time, on one pretext or the other, she (Shaily Aggarwal) started introducing the prosecutrix with the petitioner-accused. As and when the prosecutrix used to go to attend the tuition classes, the petitioner started talking to her.

After about 2 months, the petitioner forced the prosecutrix to take her to his friend's house, namely, Yash where the prosecutrix met his mother also. In November, 2017, the petitioner took her on the first floor of the house of his friend and started doing wrongful act despite the fact that she was stopping him. He told the victim that they both will get married. The victim pushed him and raised an alarm, but he pressed her mouth. Thereafter, she started feeling giddiness and almost fainted. She was not aware what the petitioner had put in the cold drink which was served to her and he established physical relations with her. When she gained consciousness, she told him as to why he had done so with her. The petitioner replied that in friendship, these things keep on going and he wants to marry her. The prosecutrix told him that she will inform her parents about the incident as he has committed wrong act with her. However, the petitioner threatened her that

he has made her video and in case she will disclose anything to anyone, he will viral her video and for that she would have to repent for the whole of her life. The prosecutrix was really afraid of it and during this period, he kept on calling her and made physical relations with her under this threat. However, when her health started deteriorating, he brought some medicine and told her that she will be all right after taking the medicine. Some of the pills were given to her which she consumed subsequently. He used to take her to various places. However, when the mother of the prosecutrix disclosed this fact to the complainant, he (complainant) asked from his daughter (prosecutrix) and she disclosed everything to him as well.

When the prosecutrix was being sent for tuition, she was very frightened. The complainant assured her that he would be available with her on the way and in case, the petitioner again comes to the coaching centre, they would get him apprehended by the police. On this assurance, the prosecutrix had shown courage and went to the coaching centre. After some time, one friend of the petitioner approached the prosecutrix with phone and asked her to talk from that mobile phone and then they caught that boy and took mobile phone from him. That mobile phone was given to the police in the police station.

Learned senior counsel for the petitioner has argued that the petitioner is in custody since 20.09.2018. The Challan in the present case has been presented against two accused, namely, the petitioner and co-accused Pardeep Singh, who has already been released on bail by the trial Court on 08.01.2019. The statement of the victim has been recorded as PW1, wherein she has stated that she was sending *WhatsApp* messages to the petitioner of

good morning and other messages showing proximity with the petitioner. The report of the doctor clearly shows that there was no semen found on the various clothes sent for examination. Even otherwise, there is a serious doubt about the date of birth of the victim and for this reason, the application was moved for summoning the record of the school as her name was not reflected in the certificate produced. Therefore, the petitioner deserves to be released on bail as there is a serious doubt about the date of birth of the victim and determination thereof would take sufficient long time. The present is a case of love affair, but the same has been given the colour of criminal offence. He has referred to the photographs of the petitioner with the prosecutrix showing their close proximity/intimacy.

On the other hand, learned State counsel has argued that though the petitioner is in custody since 20.09.2018 and co-accused Pardeep Singh has been admitted on bail by the trial Court, but there being serious and specific allegations against the petitioner of establishing physical relations with the prosecutrix, who is a minor girl as her date of birth being 14.03.2003, the petitioner is not entitled to be released on bail. The *WhatsApp* messages or the photographs being relied upon by learned senior counsel for the petitioner are of no relevance as the prosecutrix is a minor girl and it is for this reason, the provisions of POCSO Act have been invoked in the case.

I have heard learned counsel for the parties.

So far as grant of bail to co-accused Pardeep Singh is concerned the allegation against him is that he facilitated the friendship between the petitioner and the victim, but there is no allegation against him of commission of rape upon the victim. Moreover, the statement of the victim was recorded

under Section 164 Cr.PC, wherein she has narrated the entire incident in detail on the lines of the contents made in the FIR. The contents of FIR and statement recorded under Section 164 Cr.PC corroborates the same.

Therefore, when the victim being minor and the allegations levelled against the petitioner are serious, this Court finds that the petitioner does not deserve to be admitted on bail.

The present petition is, accordingly, dismissed.

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 22, 2019
Yag Dutt

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: No