

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

CRM-M-44397 of 2019 (O&M)
Decided on:- December 18, 2019.

Arvind (since minor) through his natural and legal guardian.

.....Petitioner.

Versus

State of Haryana.

.....Respondent.

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

Present:- Mr. D.S. Matya, Advocate
for the petitioner.

Mr. B.S. Virk, D.A.G., Haryana.

HARI PAL VERMA, J. (Oral)

CRM-36365-2019

Exemption application is allowed as prayed for.

CRM-36370-2019

The copies of deposition sheets (colly) dated 06.11.2019 as
Annexure P-5 are taken on record subject to all just exceptions.

CRM stands disposed of.

CRM-M-44397-2019

Though the vernacular of the FIR attached with the petition is
not legible and the Registry could not have passed this petition, but because
of the note given by the counsel for the petitioner that the case be put up
before the Bench as it is, the Registry had no option except to pass the case.

The vernacular of the FIR (Annexure P-1) is totally illegible. For this, the

petitioner is subjected to cost of Rs.10,000/- to be deposited with the Bar Association of this Court within a period of one week from today.

Otherwise, prayer in this filed under Section 439 Cr.P.C. is for grant of regular bail to the petitioner in FIR No.156 dated 10.05.2019 under Sections 363 and 366-A IPC and Section 4 of the Protection of Children from Sexual Offences Act, 2012 (for short, the POCSO Act) registered at Police Station Naraingarh, District Ambala.

The aforesaid FIR was registered at the behest of the complainant, who is mother of the prosecutrix. As per the FIR, on 05.05.2019, the victim, aged about 16 years and 10 months had been enticed away and gone with the petitioner along with jewellery and money which led to registration of the present case.

Learned counsel for the petitioner has argued that the petitioner is in custody since 09.06.2019. The complainant and the prosecutrix both have been examined before the trial Court as PW1 and PW2 respectively, but they have not supported the case of the prosecution, rather, were declared hostile. In this manner, the chances of conviction of the petitioner are quite bleak. He has, therefore, prayed that the petitioner be released on bail.

Learned State counsel, on instructions from SI Balkar Singh, does not dispute the custody of the petitioner. However, he states that in her statement under Section 164 Cr.PC, the prosecutrix has stated that on 05.05.2019, she had gone with the petitioner at about 12.00 O'clock in the night to Amritsar, where they stayed for about 15 days. During this period, physical relations were established between them. The FSL/DNA report has not been received in the case.

I have heard learned counsel for the parties.

The petitioner is in custody since 09.06.2019 and the complainant and the prosecutrix, while appearing in the witness box as PW1 and PW2 have not supported the case of the prosecution, rather, both of them were declared hostile. Further, the FSL/DNA report is yet to be received in the case. Therefore, this Court finds that when the culpability of the petitioner is yet to be decided during the trial, no useful purpose would be served by keeping him in custody and he 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/Duty Magistrate.

It is made clear that the petitioner shall be released only on his furnishing the costs, as indicated in the earlier part of this order.

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.

December 18, 2019
Yag Dutt

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: No