

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

CRM-M-44882-2019 (O&M)

Date of Decision:-29.10.2019

Baldev Singh @ Rinku

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Naveen Bawa, Advocate for the petitioner.

Ms. Rashmi Attri, Assistant Advocate General, Punjab,
assisted by ASI Teerath Ram.

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.212 dated 1.10.2018 at Police Station Daba, District Ludhiana under Section 376 Indian Penal Code and Section 12 of POCSO Act, 2012, wherein offence under Section 12 of POCSO Act was deleted and offence under Section 6 of POCSO Act was added later on.
2. The FIR was lodged at the instance of Sushila, mother of victim, wherein it has been alleged that on 30.9.2018 she alongwith her daughter, husband and son of Chander Banu had slept on one bed at about 10:00 P.M. as per their routine. However, at about 3:00 A.M. when she woke up, she found that her daughter was not on the bed. Later when she checked up the washroom, her

daughter was not even found there. It is alleged that she heard some noise coming from across the wall when she was standing on the terrace. She saw that the petitioner was committing rape upon her daughter and that the trouser of her daughter as well as of the petitioner had been lowered. However, upon noticing the complainant, the petitioner fled away from the spot.

3. The learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in the present case and that the falsity of the case would be evident from the fact that while as per the FIR, the occurrence is stated to have taken place on 30.9.2018, but when the statement of the prosecutrix was recorded in terms of Section 164 Cr.P.C. (Annexure P-2), she disclosed that it was on 15.9.2018 that she had been raped by petitioner.
4. The learned counsel the petitioner has also referred to the MLR (Annexure P-3) in respect of the prosecutrix wherein the date of occurrence has been disclosed as 15.9.2018. It has thus been submitted that the FIR has been lodged falsely after consultation.
5. Opposing the petition, the learned State counsel has submitted that in the present case the victim is a minor and that the petitioner cannot derive any advantage from the fact that there is some inconsistency in the date of occurrence. It has, however, been informed that the petitioner, as on date, has been behind bars since the last about one year and till date only 4 PWs out of cited 16 PWs have been examined.
6. I have considered rival submissions addressed before this Court. While refraining from making any expression as regards merits of the case and while also noticing that the petitioner has been behind bars since the last

about one year and till date only 4 PWs out of cited 16 PWs have been examined, further detention of the petitioner will not serve any useful purpose. The petition, as such, is accepted and the petitioner is ordered to be released on bail subject to his furnishing bail bonds/surety bonds to the satisfaction of trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

29.10.2019

pankaj

**(Gurvinder Singh Gill)
Judge**

Whether speaking /reasoned Yes / No

Whether Reportable Yes / No