

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

CRM-M No. 48590 of 2019

Date of decision : November 21, 2019

Amit @ Kala

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM : HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Sandeep Gahlawat, Advocate for the petitioner.

Mr. Ashok Singh Choudhary, AAG, Haryana.

GURVINDER SINGH GILL J. (ORAL)

1. Petitioner-Amit @ Kala, seeks grant of regular bail in a case registered vide FIR No.0156, dated 28.08.2018, registered at Police Station Pillu Khera, District Jind, under Section 6 of the POCSO Act, 2012.
2. The FIR was lodged at the instance of Ram Niwas wherein it has been alleged that the petitioner had committed an unnatural intercourse with boy aged about 10 years.
3. Learned counsel for the petitioner has submitted that he has been falsely implicated due to political rivalry and that in fact, during the course of trial, the doctor who had examined the victim and had stated that there is no medical evidence to suggest that any such act has taken place as there was no external injury. Learned counsel in this regard has drawn the attention of this Court to the medical opinion annexed as Annexure P-5, which reads as follows:

“ As per as report provided by surgeon opinion from

GH Jind, there is no injury seen and no perinlal tear. Rest of the exam is normal in my opinion, there is nothing to suggest that there has any sexual assault occurred.”

4. Learned counsel has further submitted that he had earlier moved a petition for grant of regular bail, wherein the following order was passed on 26.03.2019:

“ At the very outset, learned counsel for the petitioner submits that he may be permitted to withdraw this petition with liberty to file afresh one after statement of the informant is recorded.

In view of the aforesaid submission, the petition is dismissed as withdrawn with liberty aforesaid.”

5. Learned counsel for the petitioner has further submitted that the prosecution and the complainant are now intentionally delaying conclusion of trial leading to unnecessary incarnation of the petitioner.
6. Opposing the petition, learned State counsel has submitted that since specific allegations have been levelled against the petitioner in the FIR and that since the informant and victim are yet to be examined, no case for grant of bail is made out.
7. I have considered rival submissions addressed before this Court.
8. When the bail petition was earlier withdrawn, a liberty had been granted to the petitioner to file afresh one after statement of the informant is recorded. However, it appears that despite a period of about more than seven months having elapsed since the withdrawal of earlier bail petition and despite the trial Court having given about six opportunities to the prosecution, the

informant or the victim has not been examined so far. In these circumstances delay in the conclusion of trial, the petition is entertained.

9. Keeping in view the fact that the petitioner has been behind bars since the last 1 year and 2 months and that the medical evidence does not fully support the case of the prosecution, further detention of the petitioner will not serve any useful purpose.
10. The petition, as such, is accepted and the petitioner-Amit @ Kala is ordered to be released on regular bail on his furnishing bail bonds/surety bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate, concerned.

November 21, 2019

sarita

Whether speaking / reasoned :

Whether Reportable:

Yes / No

Yes / No

(GURVINDER SINGH GILL)
JUDGE