

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

208

CRM-M-599-2019

Date of Decision:05.04.2019

Munish Dhand

.....Petitioner

Versus

State of Punjab

.....Respondent

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

Present: Mr. Arshdeep Singh Brar, Advocate,
for the petitioner.

Mr. Jagmohan Ghumman, D.A.G., Punjab.

Mr. B.S. Bhalla, Advocate,
for the complainant.

HARI PAL VERMA, J.(Oral)

Prayer in this petition filed under Section 439 Cr.P.C. is for grant of regular bail to the petitioner in FIR No.44 dated 19.02.2018 under Section 376 IPC (the offences punishable under Section 506 IPC and Section 4 of the Protection of Children from Sexual Offences Act, 2012 were added later on), registered at Police Station City South Moga, District Moga.

Learned counsel for the petitioner has argued that the petitioner and the prosecutrix remained in relationship between 2013 till 2018. It is in order to bring the offence under Section 4 of the POCSO Act, the allegation of incident for March 2013 has been made, as the date of birth of the prosecutrix is 19.04.1995 and she attained majority on 18th April, 2013.

There is no medical evidence to support the case of the prosecution that brother of the victim Thamanpreet Singh was ever given injury by the petitioner. Petitioner is in custody since 20.02.2018 and out of total 19 witnesses cited by the prosecution, 10 witnesses have been examined, two witnesses have been given up and the remaining 07 witnesses are yet to be examined in the case.

On the other hand, learned State Counsel as well as counsel for the complainant have argued that the prosecutrix, her mother and brother Thamanpreet Singh have supported the case of the prosecution and in March 2013 when the rape was committed upon the prosecutrix, she was minor. Therefore, case has been registered against the petitioner for offence under Section 4 of POCSO Act as well. The petitioner has exploited the prosecutrix by threatening her that he is in possession of her photographs and videos.

Heard learned counsel for the parties.

The allegation against the petitioner is that he started committing rape with the prosecutrix in March 2013, when she was minor and continued it till 2018, when the FIR in question was registered. However, it has come on record that the prosecutrix was born on 19.04.1995 and she became 18 years of age on 19.04.2013 and even thereafter, the relations between them were continued till the lodging of the FIR. Thus at the time when the prosecutrix had attained majority, relationship between them continued. Therefore, this Court finds that the petitioner deserves to be admitted on bail, as still 07 more witnesses are required to be examined in the case, which may take a long time.

Accordingly, the present petition is allowed and the petitioner

is admitted on regular bail, subject to furnishing of his bail bonds/surety bonds to the satisfaction of trial Court.

However, it is made clear that the observations made hereinabove shall not be construed as an expression on the merits of the case. The trial Court shall proceed with the trial independently without being influenced by the order of bail passed by this Court.

It is made clear that the petitioner shall not extend any threat and shall not try to influence any prosecution witnesses directly or indirectly in any manner.

In case, the petitioner extends any threat, the prosecution shall be at liberty to seek cancellation of his bail in the case.

April 05, 2019
seema

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No