

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

CRM-M-50952-2019 (O&M)
Date of Decision:-5.12.2019

Saurav Goel @ Vinay

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Varinder Basa, Advocate for the petitioner.

Ms. Aditi Girdhar, Assistant Advocate General, Haryana,
assisted by ASI Balbir Singh.

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.38 dated 4.3.2019 at Police Station Civil Lines Batala, Tehsil Batala, District Gurdaspur under Sections 376, 506, 363 and 366 of Indian Penal Code and Section 4 of POCSO Act.
2. The FIR was lodged at the instance of Veena Devi, wherein it has been alleged that her daughter whose date of birth is 27.9.2002, who is pursuing B.A.-I had gone to college on 28.2.2019 but did not return back. It is alleged that the complainant suspected that her daughter had been enticed away by some unknown persons on the false pretext of marriage. Subsequently, the prosecutrix was recovered on 9.3.2019 and her statement in terms of Section

164 Cr.P.C. was recorded wherein she stated that she is studying in B.A.-I in Government College, Gurdaspur and is maintaining a mobile phone and that she had been receiving calls on her mobile phone from phone No.93546-66038 of Saurav Goel @ Vinay, who represented that he loves the prosecutrix and wanted to solemnize marriage with her. The prosecutrix further stated therein that being taken in by the said representation she went to Amritsar Bus Stand on 28.2.2019 on the asking of the petitioner and from there she went to Ambala where she met Saurav Goel @ Vinay, who took her to a guest house where they stayed for four days and where Saurav Goel @ Vinay committed rape upon her. It is alleged that Saurav Goel @ Vinay had forcibly established physical relations with her while holding out a false promise of marriage.

3. The learned counsel for the petitioner has submitted that it is apparently a case where the prosecutrix had voluntarily chosen to have physical relations with the petitioner but subsequently when some differences arose between them, the present FIR came to be lodged. It has further been submitted that the prosecutrix infact is aged more than 18 years and her age has been disclosed incorrectly.
4. Opposing the petition, the learned State counsel has submitted that since the prosecutrix in her statement recorded under Section 164 Cr.P.C. as well as in her statement recorded during the proceedings of trial has consistently stated that she had been raped by the petitioner and that she is aged less than 18 years, no case for grant of bail is made out. It has, however, been informed that the petitioner has been behind bars since the last more than 8 months and that as on date only 2 PWs out of the cited 21 PWs have been examined and that the statement of the prosecutrix already stands recorded.

5. Having regard to the facts and circumstances of the case, it will be debatable as to whether the prosecutrix was enticed away by the petitioner or as to whether she voluntarily established physical relations with the petitioner. In any case, since the petitioner has been behind bars since the last more than 8 months and as on date only 2 PWs out of the cited 21 PWs have been examined, further detention of the petitioner will not serve any useful purpose as conclusion of trial is likely to take some time. The petition, as such, is accepted and it is ordered that the petitioner be released on bail subject to his furnishing bail bonds/surety bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate, concerned.

5.12.2019

pankaj

**(Gurvinder Singh Gill)
Judge**

Whether speaking /reasoned Yes / No

Whether Reportable Yes / No