

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

CRM-M-52219-2019 (O&M)

Date of Decision:-12.12.2019

Rahul Paswan @ Rohit

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Karan Padam, Advocate for the petitioner.

Ms. Ruchika Sabherwal, Assistant Advocate General, Punjab.

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.324 dated 19.11.2018 at Police Station Division No.6, Ludhiana under Section 376-D of Indian Penal Code and Section 4 of POCSO Act.
2. The FIR was lodged at the instance of Sarita Devi, wherein it has been alleged that her daughter aged about 13 years had been raped by the petitioner Rahul Kumar Paswan @ Rohit.
3. The learned counsel for the petitioner has submitted that it is a case where the petitioner is a juvenile as his date of birth is 30.6.2002. The learned counsel in this regard has referred to birth certificate issued by Gram Panchayat, Dullahpur (Bihar) annexed with the petition as Annexure P-1. The learned counsel has submitted that the Illaqa Magistrate despite the said certificate has ordered for examination of the accused by a Civil Surgeon so as to ascertain his age which is infact contrary to Rule 12 (3)(a) of the

Juvenile Justice (Care and Protection of Children) Rules, 2007. The learned counsel has further submitted that the FIR came to be lodged due to some misunderstanding, which has now been resolved and that the complainant as of now has no objection for grant of bail.

4. Mr. Vikrant Pujara, Advocate has today put in appearance on behalf of the complainant and has filed power of attorney, which is taken on record. He has stated that a compromise has been effected amongst the parties as far as the present petition is concerned and that he has no objection in case the petitioner is granted bail.
5. The learned State counsel has, however, opposed the petition and has submitted that since allegations as regards rape have been levelled in unambiguous terms in the FIR and that since it is yet to be determined as to whether the petitioner is a juvenile or not, 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 one year and charges are yet to be framed.
6. Having regard to the facts and circumstances of the case and while bearing in mind that the petitioner has been behind bars since the last more than one year and till date even charges have not been framed, further detention of the petitioner will not serve any useful purpose as the 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.

12.12.2019

pankaj

Whether speaking /reasoned

Whether Reportable

Yes / No

Yes / No

(Gurvinder Singh Gill)
Judge