

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

Criminal Misc. No.M-53043 of 2019

Date of Decision: 17.12.2019

Om Parkash

...Petitioner (s)

Versus

State of Haryana

...Respondent(s)

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

Present:- Mr. Satbir Singh Gill, Advocate
for the petitioner.

Mr. Baljinder Singh Virk, DAG, Haryana.

HARI PAL VERMA, J. (Oral)

Prayer in the present petition filed under Section 439 of the Code of Criminal Procedure, 1973 is for grant of regular bail to the petitioner in case FIR No.395 dated 28.09.2019 under Sections 376/511/354A IPC and Section 6/10/18 POCSO Act registered at Police Station Rania, District Sirsa.

The aforesaid FIR was registered at the behest of the prosecutrix and as per the FIR, on 26.09.2019 at about 2/3 p.m., the prosecutrix had gone to fields with her grandmother. Due to excessive sun heat, she sat down under the shadow of a tree with her uncle (the petitioner). Her two brothers were also present there. The uncle (the

petitioner) moved them (her brothers) away and started making obscene acts with her. He started rotating his hands on her breast. When she tried to stand up, the petitioner caught her hand and made her sit and started touching her private parts.

Learned counsel for the petitioner has argued that it is in the background of some money dispute between the parties, the present FIR was registered. He referred to an entry in *Bahi* (Annexure P-2), wherein father of the prosecutrix had acknowledged payment of a sum of Rs.30,000/- from the father of the petitioner Banwari Lal. The petitioner is in custody since 29.09.2019.

Learned State counsel does not dispute the custody of the petitioner. However, he submits that the prosecutrix was just 12 years of age and the argument raised on behalf of the petitioner that the aforesaid FIR was registered in the background that father of the prosecutrix had taken money from the father of the petitioner is yet to be established during trial. But considering the nature of allegations in the case, the petitioner does not deserve to be released on bail.

I have heard learned counsel for the parties.

Admittedly, the petitioner is in custody since 29.09.2019 and no medical evidence whatsoever has been produced on record to establish that the prosecutrix was subjected to sexual assault. The fact that father of the prosecutrix had taken money from the father of the petitioner is yet to be established. Considering the fact that culpability of the petitioner is yet to be established during trial and the trial in the case is not likely to be

concluded in near future, this Court deems it appropriate to release him on regular bail.

Accordingly, the present petition is allowed and the petitioner is admitted on regular bail, subject to furnishing of bail bonds/surety bonds to the satisfaction of trial Court.

December 17, 2019
AK

(HARI PAL VERMA)
JUDGE

Whether speaking / reasoned?

Yes / No

Whether reportable?

Yes / No