

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

**CRM-M-6400-2020 (O&M)
Date of decision : 10.09.2020**

VIKAS

.....Petitioner

Vs.

STATE OF HARYANA

.....Respondent

CORAM: HON'BLE MRS. JUSTICE ALKA SARIN

Present: Mr. Shobhit Phutela, Advocate for the petitioner

ALKA SARIN, J. (ORAL)

Heard through Video Conferencing.

This is the first petition under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail in FIR No.23 dated 11.03.2019 registered under Sections 376, 506 and 376(2)(n) of the Indian Penal Code, 1860 and Section 6 of Protection of Children against Sexual Offences Act, 2012 registered at Women Police Station, District Rohtak.

It has been contended by learned counsel for the petitioner that the petitioner has falsely been implicated in the case at the behest of the family members.

Notice of motion.

On the asking of the Court, Ms. Dimple Jain, AAG Haryana has joined the session through Video Conferencing and accepts notice on behalf of the respondent/State of Haryana. Learned State counsel has forwarded the copy of the FSL Report and the DNA Report on the e-mail to the VC Coordinator. The learned counsel for the State has contended that the DNA of the petitioner has matched with the samples drawn from the person of the Prosecutrix.

I have heard learned counsel for the parties.

In the present case, the allegations in the FIR are that the complainant has one son and one daughter who reside with the mother of the complainant. It has further been alleged that the Prosecutrix studies in Class-IX and on 10.03.2019 the Prosecutrix was sleeping with her maternal grandmother and her brother. When the brother woke up at 2:15

AM he saw that the Prosecutrix was not in the house and he informed his maternal grand-mother and they started looking for the Prosecutrix. They saw the Prosecutrix coming out of house of the petitioner's sister. When they took her to the house and questioned her, she revealed that Vikas on 10.03.2019 at about 12:30 AM had called her on the mobile phone of maternal grandmother and threatened her and took her from her house to his sister's house and there he forcibly raped the Prosecutrix. The Prosecutrix is a minor child and, therefore, the provisions of the POCSO Act have been attracted in the present case. The FSL Report as well as the DNA Report produced by the State counsel, copies of which have been printed and placed on the file, clearly reveal that the DNA of the petitioner has matched with the sample drawn from the Prosecutrix.

In view of the fact that the DNA Report clearly reveals that the DNA of the petitioner has matched with the samples drawn from the Prosecutrix and further the fact that the Prosecutrix herself has still not been examined, I do not think this to be a fit case for grant of regular bail. It is, however, made clear that any observation made herein shall not be construed as an expression of opinion on the merits of the case.

The present petition is, accordingly, dismissed.

September 10, 2020
kv

(ALKA SARIN)
JUDGE

Whether speaking/non-speaking: Yes/No
Whether reportable: Yes/No