

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

CRM-M No.15362 of 2020
DATE OF DECISION : 1st JULY, 2020

Rohit

.... Petitioner

Versus

State of Haryana

.... Respondent

CORAM : HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

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In virtual Court

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Present: Mr. K.D.S. Hooda, Advocate for the petitioner.

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RAJBIR SEHRAWAT, J. (Oral)

The present petition has been filed by the petitioner under Section 439 Cr.P.C. for grant of bail pending trial in case FIR No.1298 dated 27.11.2019 registered under Sections 363 & 366A IPC and Section 4 of the POCSO Act, 2012 (challan has been presented under Sections 363, 366 & 376(3) IPC and Section 4(2) of the POCSO Act, 2012 and Section 3(1)(w)(i), 3(2)(v) and 3(2)(va) of the SC and ST (Prevention of Atrocities Act, 1989) at Police Station City Thanesar, District Kurukshetra.

It is contended by the counsel for the petitioner that the case against the petitioner is totally concocted. There is not even any allegation by the prosecutrix that the petitioner ever did anything wrong to her. Even in the statement, recorded under Section 164 Cr.P.C., she has stated that the petitioner only helped her when she had already left her house. The counsel for the petitioner has further submitted that the mother of the prosecutrix is indulging in narcotics and, therefore, at

present she is in custody. Hence, to extract money from the petitioner; a totally wrong story has been fabricated at the instance of her mother. It is further submitted that the petitioner is in custody since December, 2019 and there is no other case against the petitioner.

Notice of motion.

Mr. Anmol Malik, DAG, Haryana, accepts notice on behalf of the State.

On the other hand, the counsel for the State, being instructed by Woman Sub-Inspector Kamlesh Kumari, has vehemently opposed the bail petition and submitted that the prosecutrix is only 14 years of age. Therefore, her consent is not having any legal significance. Still further, it is submitted that the prosecutrix has not been examined before the trial court so far and the case of the prosecution would be duly proved before the trial court. However, the counsel has not been able to dispute the statement of the prosecutrix made under Section 164 Cr.P.C., which shows that the petitioner has not done anything wrong to the girl. It is also not disputed that the petitioner is in custody since December, 2019 and that there is no other case against him.

In view of the above, but without expressing any further opinion on the merits of the case, the present petition is allowed. The petitioner is ordered to be released on bail pending trial subject to his furnishing bail bonds/surety to the satisfaction of the Trial Court/Duty Magistrate, concerned.

1st JULY, 2020
'raj'

(RAJBIR SEHRAWAT)
JUDGE

<i>Whether speaking/reasoned:</i>	<i>Yes</i>	<i>No</i>
<i>Whether Reportable:</i>	<i>Yes</i>	<i>No</i>