

CRR No.979 of 2020

Date of Decision: 02.07.2020

Avtar Singh

.....Petitioner

Vs.

State of Haryana

....Respondent

CORAM : HON'BLE MR.JUSTICE AMOL RATTAN SINGHPresent: Mr.Gurdarshan S.Sidhu, Advocate
for the petitioner.

Mr.Pradeep Parkash Chahar, Deputy A. G., Haryana.

AMOL RATTAN SINGH, J. (Oral)

All cases listed today have been taken up for hearing by way of video conferencing because of the situation existing due to the Covid-19 pandemic.

By this petition, the petitioner challenges the order dated 13.03.2020, passed by the Learned Additional Sessions Judge, Sirsa, and the order dated 25.02.2020, passed by the learned Principal Magistrate, Juvenile Justice Board, Sirsa, whereby the prayer for grant of the concession of regular bail to the petitioner (juvenile in conflict with law), has been declined, after FIR No.05, dated 27.01.2020, was registered at Police Station Women Police, Dabwali, District Sirsa, alleging therein the commission of offences punishable under Sections 323, 328, 365, 376-D IPC and Section 6 of POCSO Act, 2012.

Learned counsel for the petitioner submits that the petitioner was not named in the FIR and is alleged to be one of six boys who allegedly raped the prosecutrix (who was 16 years and 7 months old), and as a matter

of fact the background is that against the father of the prosecutrix and some other persons, an FIR was registered one day prior, i.e. on 27.01.2020, alleging therein the commission of an offence punishable under Section 302 IPC, because the prosecutrix is alleged to have visited the person murdered, and upon her returning from his residence, her father and relatives etc. went to the house of deceased in that case and murdered him.

The contention therefore is that the FIR registered now is a backlash to the said FIR.

Mr.Chahar, learned DAG, Haryana, on the other hand submits that the victim being a minor, with bruise marks having been found on her thighs etc., the petitioner does not deserve the concession of bail.

Upon query as to whether the petitioner has actually been identified by the prosecutrix, he submits that no test identification parade was conducted and that in her statement under Section 164 Cr.P.C., she had stated that she had been sexually assaulted, though he fairly submits (upon query of this Court), that even in that statement she has not specifically named the petitioner.

He next submits that the FSL report with regard to any 'semen matching' etc. is still to be received, though the medical examination conducted, showing bruise marks, was immediately received.

Upon further query he next submits that no prosecution witness has been examined so far.

Considering the aforesaid circumstances and the fact that the petitioner has been in custody for more than 5 months now and he is also stated to be a juvenile, without making any comment on the actual merits of

the case at all, the petition is allowed, with the petitioner ordered to be admitted to bail, upon his furnishing bail bonds and surety bonds to the satisfaction of the Juvenile Justice Board/Duty Magistrate concerned.

July 02, 2020

dharamvir

**(AMOL RATTAN SINGH)
JUDGE**

Whether speaking/reasoned : YES
Whether Reportable : NO