

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

212

**CRM-M-20137-2020
Date of decision: 02.09.2020**

Jonny

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Sachin Mittal, Advocate
for the petitioner.

Mr. Naveen Singh Panwar, DAG, Haryana
for the respondent-State.

ARUN KUMAR TYAGI, J (ORAL)

(The case has been taken up for hearing through video conferencing.)

The petitioner has filed the present (first) petition under Section 439 of the Code of Criminal Procedure, 1973 (for short, "the Cr.P.C.") for grant of regular bail in case FIR No.44 dated 22.05.2020 registered under Section 4 of the Protection of Children from Sexual Offences Act, 2012 and Sections 365 and 506 of the Indian Penal Code, 1860 (for short, "IPC") at Women Police Station, Manesar, Gurugram.

The above said FIR was lodged by mother of the prosecutrix who alleged that on 20.05.2020 at 12 mid-night when she got awake she found her younger daughter-the prosecutrix missing from her bed who returned at 2 O' clock and on being asked told her that accused Jonny (petitioner) had enticed and raped her.

The petitioner, who is in custody since the date of his arrest, has filed the present petition for grant of regular bail.

The petition has been opposed by the learned State counsel in terms of reply filed by way of affidavit of Shakuntala, HPS, Assistant Commissioner of Police, CAW Manesar, Gurugram in the registry which is taken on record.

I have heard learned counsel for the petitioner and learned State counsel and gone through the relevant record.

Learned counsel for the petitioner has submitted that the petitioner has been falsely implicated in the case. The FIR in question was registered on statement of mother of the prosecutrix. In her statement under Section 164 of the Cr.P.C., the prosecutrix had denied the allegations of committing of rape by the petitioner on her. Subsequently, the complainant-mother of the prosecutrix has also sworn an affidavit that the petitioner had not committed rape on her daughter and she had made the allegations regarding rape due to some misunderstanding. As per FSL report, no semen was detected on vaginal swabs taken. The trial is likely to take long time and no useful purpose will be served by further detention of the petitioner in custody. Therefore, the petitioner may be granted regular bail.

On the other hand, learned State counsel has submitted that the petitioner is accused of having committed rape on minor daughter of the complainant and in view of the gravity of accusation, the petitioner does not deserve grant of regular bail. Therefore, the petition may be dismissed.

In view of the facts and circumstances of the case, nature of accusation, statement of the prosecutrix under Section 164 of the Cr.P.C. and affidavit sworn by the complainant-mother of the

prosecutrix and the fact that the trial is likely to take long time due to restrictions imposed to prevent the spread of infection of Covid-19 but without commenting on the merits of the case, I am inclined to extend the concession of regular bail to the petitioner.

Therefore, the petition is allowed and the petitioner is ordered to be released on regular bail on furnishing of personal and surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

02.09.2020

Vinay

(ARUN KUMAR TYAGI)
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No