

**CRM-M-20516-2020 (O&M)
Date of decision :07.09.2020**

Chintu

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MRS. JUSTICE ALKA SARIN

Present: Mr. J.S. Dahiya, Advocate for the petitioner.

Ms. Dimple Jain, AAG, Haryana.

ALKA SARIN, J. (ORAL)

Heard through video conferencing.

This is a petition under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the petitioner in FIR No.69 dated 05.02.2019 under Sections 376-A, 376-B, 377, 457, 506 of the Indian Penal Code, 1860 and Section 6 of the Protection of Children from Sexual Offences Act, 2012 registered at Police Station Samalkha, District Panipat.

As per the allegations in the FIR, the complainant i.e. mother of the Prosecutrix had alleged that her daughter, who is 12 years of age, was playing outside with the other children at about 08.00 pm and when her daughter came back after one hour she was weeping and told her that Chintu father of Gopal, their neighbour, had pulled off her *payjami* and committed a wrong act with her. Further, the allegation in the FIR is that the accused, the petitioner herein, had put his private part into her mouth.

Learned counsel for the petitioner has contended that the petitioner has falsely been implicated in the case and he was not present at the spot on the date of the occurrence i.e. 04.02.2019 as one day prior to that i.e. on 03.02.2019 he, along with one Dharambir, had gone to his work for installation of a tower at Village Bali, District Sonipat as per his daily routine and remained there till 05.02.2019 at about 12.00 pm. In

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support of his contentions he has attached the affidavit of the said Dharambir as Annexure P-1.

Ms. Dimple Jain, AAG, Haryana has placed on record the copy of the MLR as well as the status report. She has stated that the Prosecutrix is 12 years of age and a conjoint reading of the MLR, FSL report, as well as the statement of the Medical Officer leaves no manner of doubt that the Prosecutrix was sexually assaulted by the petitioner.

I have heard learned counsel for the parties.

In the present case, very serious allegations have been made against the petitioner of having sexually assaulted a 12 years old child. The affidavit (Annexure P-1), which has been attached with the present petition in order to show that the petitioner was not present at the spot, does not inspire confidence. A perusal of the said affidavit itself reveals that there is no place of execution of the said affidavit mentioned in the document. Further, a perusal of the MLR as well as the FSL report *prima facie* reveals that there has been a sexual assault on the Prosecutrix who is a minor. Learned counsel for the petitioner has also not been able to point out any reason as to why the petitioner would falsely be implicated in the case by the mother of the Prosecutrix.

In view of the above, I find no merit in this petition. The petition is dismissed. Nothing stated herein shall be taken to be an expression of opinion on the merits of the case.

07.09.2020
Yogesh Sharma

(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO