

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

215

CRM-M-20252 of 2020

Date of decision:22.09.2020

Vikshit @ Vicky

... Petitioner

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Manish Mehta, Advocate, for the petitioner.

Mr. Tanuj Sharma, Assistant Advocate General, Haryana
for the respondent-State.

SUVIR SEHGAL J.

The hearing of this petition has been taken up through video conferencing due to outbreak of coronavirus (Covid-19) pandemic.

The present petition has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in FIR No.30 dated 10.04.2019 registered under Sections 363, 366-A, 506 of Indian Penal Code, 1860 and Section 4 of Protection of Children from Sexual Offences Act, 2012 at Women Police Station Narnaul, District Mahendergarh.

As per the version of the prosecution, a complaint was given by Krishna (Pappal) to the effect that her daughter (hereinafter referred to as “the victim/prosecutrix”) had gone to the house of her maternal uncle for 15 days. On 04.04.2019, at 9.00 p.m., when she was coming back from a shop after buying some vegetables, Vikshit (Vicky), petitioner herein, abducted her, gagged her and raped her. At about 11.00 p.m., the petitioner dropped her in front of the house of Hari Singh Bhati and threatened her that in case, she disclosed the incident to her maternal uncles, he will kill them and kill

himself also. The victim was terror-struck and she did not disclose the incident to anyone despite being asked repeatedly. After a few days when her mother, came over, she narrated her the entire sequence of events and the present FIR was lodged.

Counsel for the petitioner has argued that a false case has been registered against the petitioner with an ulterior motive and there is a delay of 06 days in submitting the complaint. He has relied upon the Medical Examination Report of the Victim of Sexual Abuse (MLR) to contend that the doctor had opined that there is no external mark of injury on any part of the body of the victim, which according to the counsel shows that the alleged incident never took place. Reference has been made by the counsel to the testimony of the victim, her mother and the doctor (Annexures P-2 to P-4) to urge that they have not supported the case of the prosecution and the petitioner is likely to be acquitted. He submits that the petitioner is in custody since 10.04.2019 and the trial is likely to take time to conclude, therefore, the petitioner deserves to be enlarged on bail.

Refuting his arguments, State counsel upon instructions from ASI Asha, has submitted that the prosecutrix, who is a school going girl, in her statement under Section 164 Cr.P.C as well as in her deposition before the Court has supported the case of the prosecution. The other evidence on the record including the statement of the complainant, establishes the guilt of the accused according to the State counsel. As per his instructions, the prosecution evidence is underway and 06 out of 18 witnesses have been examined. He contends that the petitioner does not deserve to be released on bail pending trial.

I have considered the rival submissions of the parties.

There is no dispute about the date of birth of the victim who born on 05.11.2004 and was less than 16 years of age on the date of the horrific incident. The petitioner has been specifically named in the FIR lodged by the mother of the prosecutrix, who in her statement before the Magistrate has supported the same. From the statement of the victim and her deposition before the Court, it is apparent that due to the threat given by the petitioner, the prosecutrix was so petrified that she did not disclose anything to her relatives with whom she was staying but the moment her mother came, she blurted out the entire incident. In this situation, the alleged delay in the registration of the FIR stands fully explained.

No doubt, the MLR of the victim does not show any injury on the prosecutrix but the fact remains that the MLR was conducted on 10.04.2019, i.e. after a period of 06 days of the incident. There is a possibility that any scrape, abrasion or any superficial injury which the victim may have suffered, got healed with time and was not visible to the doctor, who conducted her examination. Still further, an analysis of the testimony of the victim and her mother shows that both have stood by their version despite having been cross-examined at length by the defence.

Considering the gravity of the offence and fact that the victim was a minor girl of 15 years of age, the concession of regular bail cannot be extended to the petitioner. The petition is, accordingly, dismissed.

It is clarified that any observation made hereinabove shall not be construed to be an expression on the merits of the case.

September 22, 2020

savita

Whether Speaking/Reasoned

Whether Reportable

(SUVIR SEHGAL)

JUDGE

Yes

Yes