

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

(Through Video Conferencing)

CRR-1038-2020 (O&M)

Date of Decision: 24.8.2020

Sahil

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MS. JUSTICE NIRMALJIT KAUR

Present: Mr. R.N. Lohan, Advocate, for the petitioner.
Ms. Tanushree Gupta, Deputy Advocate General, Haryana.
Mr.K.L.Saini, Advocate, for the complainant.

NIRMALJIT KAUR, J. (Oral)

The present revision is filed against the order dated 8.7.2020 passed by the learned Additional Sessions Judge, Fast Track, Special Court, POSCO, Jind as well as order dated 25.6.2020 passed by the learned Principal Magistrate Juvenile Justice Board, Jind declining bail to the petitioner.

While praying for bail, learned counsel for the petitioner submitted that the petitioner is innocent and has not committed any offence. He has been falsely implicated by the police at the instance of the complainant and her family members. The Courts below have rejected the bail applications of the petitioner on the ground that the petitioner would come into association with other criminals and his offence was heinous in nature.

Learned counsel for the complainant on the other hand submitted that the victim was only 13 years of age.

Heard.

A close reading of the FIR shows that the prosecutrix named three persons in her FIR. It was alleged that when her family members were away from house, they took her to the Government School in the village and the petitioner raped her while other co-accused, Jitender and Ankit caught hold her hands and legs.

The allegation sound serious but for the following facts that have been brought to the notice of the Court:-

(a) Both the accused, namely, Jitender and Ankit are placed in column No.2 and no challan has been filed against them.

(b) The medical report does not support ocular evidence. As per the FIR, the allegations are of rape having committed, whereas, the medical report does not support the said allegation. “Local Examination- Hymen intact, no sign of external injury seen over labia majora and minora. No injury mark seen over perineal region. No redness/congestion seen. Pubic hair present. No discharge seen.”

(c) On the last date of hearing, the Court had summoned RFSL report. There is no detection of human semen on the clothes of the victim, which is stated to be Ex.P-1 to 3.

Moreover, the petitioner is a juvenile and the bail to a juvenile can be declined only in case where reasonable grounds to believe that the release is likely to bring him into the association of any known criminal or expose him to moral, physical or psychological danger, whereas, in the present case no such report is on record or was ever summoned by the Juvenile Justice Board while declining the bail.

In view of the above and coupled with the fact that the petitioner is juvenile, the present petition is allowed and the petitioner is released on bail to the satisfaction of the concerned Chief Judicial Magistrate/Duty Magistrate. Nothing said herein shall have any bearing on the merits of the case.

(NIRMALJIT KAUR)
JUDGE

24.8.2020
sharmila

Whether Speaking/Reasoned	:	Yes/No
Whether Reportable	:	Yes/No