

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

**AT CHANDIGARH**

**Criminal Misc. No.M-21644 of 2019 (O&M)**

**Date of Decision: 16.01.2020**

Sadik

...Petitioner (s)

Versus

State of Haryana

...Respondent(s)

**CORAM:- HON'BLE MR. JUSTICE HARI PAL VERMA**

Present:- Mr. S.S. Majithia, Advocate  
for the petitioner.

Ms. Priyanka Sadar, AAG, Haryana.  
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**HARI PAL VERMA, J.**

Prayer in this petition filed under Section 439 of the Code of Criminal Procedure, 1973 is for grant of regular bail to the petitioner in case FIR No.133 dated 08.07.2018 under Sections 363, 366A, 376(2), 120-B IPC and Section 4 POCSO Act registered at Police Station Sanoli, District Panipat.

The aforesaid FIR was registered at the behest of the complainant, who is father of the prosecutrix. As per the FIR, on the night of 07.07.2018, the complainant was sleeping in his house along with his family members. At about 3-00 A.M., when the complainant woke up, he

did not find his daughter, who was about 12 years of age, on her cot. Therefore, search was made in the house as well as outside the house, but he could not find his daughter. Then, he came to know from some person that Aliyas s/o Wazid and his wife Rehana had called his daughter in the night and he has apprehension that they might have handed over his daughter to their nephew Sadik s/o Zakir and two other persons after giving some intoxicants. It was suspected that Aliyas s/o Wazid and his wife Rehana had kidnapped his daughter with the intention to commit gang rape with the victim and to murder her.

Learned counsel for the petitioner has argued that as per the statement of the victim recorded under Section 164 CrPC, no offence under Section 376(2) IPC or any other offence under POCSO Act is made out against the petitioner. Moreover, during the counselling proceedings, while recording her statement by the Legal Aid Counsel, no such allegation was made by the prosecutrix against the petitioner. He has further argued that the co-accused namely Aliyas s/o Wazid and Rehana have already been granted regular bail by this Court. The petitioner is in custody since 10.07.2018 and he is a young boy of 19 years and the prosecutrix is also named as Parmeena and her date of birth is 08.11.1994, as is evident from Aadhar Card Annexure P-8. He has also referred to certificate dated 11.12.2019 issued by Additional District Registrar Birth & Death, Panipat, wherein the date of birth of the prosecutrix is mentioned as 08.11.1994. Since trial in the case will take sufficient long time, the petitioner be released on bail.

On the other hand, learned State counsel has argued that vide order dated 03.12.2019, the trial Court has ordered ossification test of the prosecutrix and as per the report dated 06.12.2019 of the Dental Surgeon, the victim appears to be between 16 to 17 years of age.

I have heard learned counsel for the parties.

The argument of counsel for the petitioner that the date of birth of the prosecutrix is 08.11.1994 and not 20.04.2004, as per the birth certificate dated 11.12.2019 issued by Additional District Registrar Birth & Death, Panipat, cannot be accepted, as the said certificate has been issued in the name of Parmeena daughter of Rahni, whereas the prosecutrix in the case in hand is not Parmeena. Even her mother's name does not match with this birth certificate. Moreover, as per the migration certificate dated 01.04.2015 issued by the Principal, Govt. Sr. Sec. School, Garhi Basic (Panipat), date of birth of the prosecutrix is 20.04.2004 and her mother's name is mentioned as Ruksana. Thus, the documents Annexure P-8 and P-14 as well as the migration certificate dated 01.04.2015 issued by the Principal, Govt. Sr. Sec. School, Garhi Basic (Panipa) are altogether different.

Therefore, considering the fact that prosecutrix in the case is minor and the allegations against the petitioner are serious, no case for grant of regular bail is made out.

Accordingly, the present petition is dismissed.

However, it is made clear that the observations made hereinabove shall be limited to decision of the present bail petition and

same shall not be construed as any expression of opinion on the merits of the case.

All the pending applications shall also stand disposed of.

January 16, 2020  
**AK**

( **HARI PAL VERMA** )  
**JUDGE**

Whether speaking / reasoned?

Yes / No

Whether reportable?

Yes / No