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

**CRM-M No.23092 of 2020(O&M)
Date of Decision: 28.09.2020**

Sunil @ Tarjan @ Sunil Kumar

.....Petitioner

Vs

State of Haryana

.....Respondent

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present:Mr. Rajesh Bansal, Advocate
for the petitioner.

Mr. Rajat Gautam, DAG, Haryana.

RAJ MOHAN SINGH, J.(Oral)

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

Petitioner seeks grant of regular bail under Section 439 Cr.P.C in his second attempt in case bearing FIR No.05 dated 07.01.2020 registered under Section 377 IPC (Section 3(2)(Va) of Scheduled Castes and Schedules Tribes (Prevention of Atrocities) Act, 1989 and Section 4 of the Protection of Children from Sexual Offences (POCSO) Act, 2012 added later on) at Police Station Sadar Safidon, District Jind.

Earlier CRM-M No.12859 of 2020 was got dismissed as withdrawn vide order dated 04.06.2020 with a liberty to file fresh petition with proper instructions.

The allegations are of committing carnal intercourse against the order of nature when the victim went to fetch liquor from a liquor shop in the village. The victim is stated to be more than 16 years of age.

As per MLR dated 07.01.2020, no external injury was found on the private part of the victim. No redness was detected. As per opinion of the surgeon, no foreign body was seen during the anal's examination . No discharge was found. No bleeding was detected. Offence under Section SC/ST Act has been alleged only on account of aforesaid unnatural activity.

In pursuance of direction earlier issued by this Court, FSL report, MLR, statements of victim and Harpal Singh have been placed on record. As per statements of victim and his father, contrary stand has been taken by them to the effect that when the accused failed in his attempt to commit carnal intercourse against the order of nature, then did something else which has been pointed out in the statement(s).

This change in the stand would be debatable before the trial Court on the basis of material collected by the police,

Petitioner is in custody since 08.01.2020.

At this stage, without adverting to the merits of the case, it would be just and appropriate to grant benefit of regular bail to the petitioner.

Let the petitioner be enlarged on regular bail, subject to his furnishing adequate bail bonds/surety bonds to the satisfaction of trial Court/Duty Magistrate concerned.

Nothing expressed hereinabove would be construed to be an expression of any opinion on merits of the case.

28.09.2020

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**(RAJ MOHAN SINGH)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No