

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

**CRM No.M-27971 of 2020
Date of Decision: September 21, 2020**

Amit Kumar @ Kaka

...Petitioner

VERSUS

State of Punjab

...Respondent

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr.Jaskarant Singh Attar, Advocate,
for the petitioner.

ARCHANA PURI, J.

The matter has been taken up through video conferencing in the light of the COVID-19 pandemic.

Petitioner has filed this petition under Section 439 Cr.P.C. for grant of regular bail in case FIR No.309 dated 28.09.2018 under Sections 323, 325, 376, 511 and 34 IPC (302 IPC and Sections 4 and 6 of POCSO Act added later on), registered at Police Station Shimlapuri, Ludhiana.

Notice of motion.

Mr.Saurav Khurana, DAG, Punjab, accepts notice on behalf of the respondent-State.

I have heard learned counsel for the petitioner as well as learned State counsel and have gone through the record.

The aforesaid FIR was registered at the instance of maternal uncle of the victim. As per the FIR, sister of the complainant namely Aarti

was married with Deepak about 13 years back and one daughter (victim) was born from their wedlock. However, Aarti without taking divorce from her husband, started living with Amit Kumar @ Kaka, without performing marriage, who is now seeking regular bail. On 25.09.2018, when the mother of the victim was away and victim returned home from school, then Amit Kumar @ Kaka, who had illicit relations with Aarti, closed the door from inside and had given beatings to the victim and also attempted to commit wrong act with her, as a result whereof, the victim fell unconscious. The owner of the house, where the victim along with her mother and petitioner was residing, had informed mother of the victim about the incident. Thereafter, the victim was taken to the hospital, where she had died.

It is now submitted at the behest of the petitioner that he has been falsely implicated in the present case and he is in custody since 30.09.2018. It is also submitted that charge has been framed against the petitioner and ten witnesses have since been examined. It is further submitted that Aarti, mother of the victim, who was similarly placed, has already been granted bail by this Court vide order dated 04.12.2019. As such, learned counsel for the petitioner made a prayer for grant of bail to the petitioner, on the principle of parity.

However, submissions so made by learned counsel for the petitioner, have been resisted by learned State counsel. He submits that there are serious allegations against the petitioner as the victim was 7 years old child and due to the conduct of the petitioner, she has been done to death. Even, it is submitted by learned State counsel that petitioner is not entitled to bail, on principle of parity also.

The perusal of the record reveals that the victim was 7 years old child and finding her alone, the petitioner had allegedly attempted to commit penetrative assault upon her and she had been given beatings with some wooden instrument like 'belan' and she became unconscious, which ultimately led to her death. Though, it is stated that the petitioner has been falsely implicated, but it is too early to comment upon the plea of false implication.

Looking at the age of the victim and also considering the grave nature of offence allegedly committed by the petitioner, no ground is made out for grant of regular bail to the petitioner.

Consequently, finding no merit in the present petition, the same is dismissed.

(ARCHANA PURI)
JUDGE

September 21, 2020

Vgulati

Whether speaking/reasoned

Yes

Whether reportable

No