

214.

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

CRM-M-29883-2020 (O&M)

Date of decision: 28.10.2020

SURENDER KUMAR @ CHALLI

... Petitioner

versus

STATE OF HARYANA

.... Respondent

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr. Talim Hussain, Advocate,
for the petitioner.

Mr. Naveen Singh Panwar, DAG, Haryana.

HARI PAL VERMA, J.(Oral)

The matter has been taken up for hearing through video conferencing due to outbreak of COVID-19.

Prayer in the present petition filed under Section 439 Cr.P.C. is for grant of regular bail to the petitioner in case FIR No.80 dated 23.05.2019, under Section 376(D) of IPC and Sections 4 & 6 of POCSO Act registered at Police Station Sadar Sohna, Gurugram, District Gurugram.

The aforesaid FIR was registered at the behest of the prosecutrix-a girl aged about 21 years with the allegations that in the year, 2016, the co-accused Sanjeet Bhamla enticed the victim and made physical relations with her. At that time, she was 16-17 years of age. The accused threatened to viral her objectionable photographs if she discloses the said fact to anyone. In July, 2016, Sanjeet Bhamla threatened and forced the victim to establish relations with the other co-accused whose name was also

Sanjeet. Both (Sanjeet Bhamla and Sanjeet) made physical relations with the prosecutrix till December, 2016. In December, 2017, another boy Sandeep Bainsla also joined the co-accused and committed wrong act with her. In January, 2018, 4th accused, namely, Chhali, the present petitioner, also joined the co-accused. He also threatened and blackmailed the victim. He told the victim-prosecutrix that he is the boss of all the 3 co-accused. He disclosed his name as Rahul Tanwar @ Surinder and sexually ravished her under threat and blackmailed till May, 2018. During this period, the mother of the victim became somewhat suspicious and fixed her marriage. She was sent to the house of her uncle (*tau*) in June, 2018. In July, the victim came to know that she is pregnant and when this fact was disclosed to the petitioner, he gave her abortion pills which resulted in miscarriage. For having guilt in her mind, she left the house of her *tau* in December, 2018 and went to Amritsar and started staying in a Gurudwara where the *sewadars* helped her, counselled her and persuaded her to marry and start a new life. Ultimately, she got married, but since she could not forget the traumatic experience or the persons, who made her life hell, she decided to report the matter to the police.

Counsel for the petitioner has argued that the complainant has already attained the age of majority in the year, 2018 when she was allegedly ravished by the petitioner. Moreover, the prosecutrix along with Deepak approached this Court by way of ***CRM-M-784-2019*** titled as ***Nissi Sharma and another Versus State of Punjab and others*** so as to seek protection for having solemnized marriage with Deepak. There is no medical evidence to support the case of the prosecution that the petitioner ever

sexually exploited her or she was pregnant from the petitioner. Petitioner is in custody since 21.09.2019.

Learned State counsel submits that the allegations against the petitioner are serious. The prosecutrix was ravished by the petitioner under threat. Moreover, the prosecutrix has not been examined in the case and in case, the petitioner is admitted on bail, there is a possibility that he may influence the prosecution witnesses including the prosecutrix.

I have heard learned counsel for the parties.

Petitioner is in custody since 21.09.2019. The allegations against the petitioner are that the prosecutrix was ravished by the petitioner under threat and she was blackmailed from January, 2018 till May, 2018 and she became pregnant, but during the period when she was allegedly ravished, she had already attained the age of majority. As regard the allegation of pregnancy from the petitioner, no such medical has been produced on record. The prosecutrix along with Deepak approached this Court so as to seek protection for having solemnized marriage against the wishes of her parents. The trial in the case is not likely to be concluded in the near future.

In the absence of any medical evidence that the prosecutrix was sexually exploited by the petitioner or she became pregnant from the petitioner, this Court finds that the culpability of the petitioner would be established during the course of trial, and accordingly, deems it appropriate to admit the petitioner on bail.

Accordingly, the present petition is allowed and the petitioner is admitted on regular bail subject to his furnishing bail bonds/surety bonds

to the satisfaction of trial Court/Duty Magistrate.

The observations made hereinabove shall not be construed as an expression on the merits of the case and the trial court shall decide the case on the basis of available material.

(HARI PAL VERMA)
JUDGE

28.10.2020
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Whether speaking/reasoned?	Yes/No
Whether reportable?	Yes/No