

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

CRM-M-31536 of 2020

Date of Decision : 15.10.2020

Arvind

...Petitioner

Versus

State of Haryana

...Respondent

(Through video conferencing)

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Lekhraj Nandal, Advocate, for the petitioner.

Mr. Naveem Kumar Sheoran, DAG, Haryana.

Harsimran Singh Sethi, J. (Oral)

The present petition has been filed under Section 439 Cr.P.C. for the grant of regular bail to the petitioner in respect of FIR No.350 dated 17.10.2019 under Sections 363, 366A, 376 of IPC and Section 4 of the POCSO Act, 2012 (Section 376 of IPC and Section 4 of POCSO Act, 2012 were added later on) registered at Police Station PGIMS Rohtak, District Rohtak.

Learned counsel for the petitioner argues that the prosecutrix herself in her statement recorded under Section 164 Cr.P.C stated that the petitioner is innocent. Learned counsel for the petitioner submits that keeping in view the said statement of the prosecutrix, the petitioner is entitled for the grant of regular bail. Learned counsel for the petitioner further submits that the report of the doctor does not disclose whether the sexual assault took place and also the FSL report received, does not connect the petitioner with the assault, if any.

Mr. Naveem Kumar Sheoran, DAG, Haryana, who has joined

the proceedings through video conference submits that keeping in view the statement of the prosecutrix, wherein, she had made allegations connecting the petitioner with Section 376 IPC, the said section was imposed alongwith Section 4 of the POCSO Act, 2012 as the prosecutrix is a minor. Learned State counsel further submits that as per the opinion of the doctor the sexual assault was not ruled out.

I have heard learned counsel for the parties and have perused the record with their able assistance.

The prosecutrix has stated certain facts with regard to the petitioner after which Section 376 IPC and Section 4 of the POCSO Act, 2012 were imposed upon the petitioner. Though, initially prosecutrix has stated that the petitioner is innocent but, the prosecutrix has supported the prosecution in her statement before the trial Court. Mere one line statement by the prosecutrix that petitioner is innocent cannot be taken into consideration as the prosecutrix is a minor and no weight can be given to the said statement, at this stage especially in view of her latest testimony. Further, opinion of the doctor where, the sexual assault is not ruled out, is also to be treated a relevant factor for considering the claim of the petitioner for the grant of bail.

Keeping in view the above, as the allegations against the petitioner of assaulting a minor girl are serious in nature, no ground is made out for grant the benefit of regular bail to the petitioner.

Dismissed.

October 15, 2020
aarti/naresh k.

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No