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

CRM-M No.38152 2020(O&M)

Date of Decision: 23.11.2020

Silak Ram

.....Petitioner

Vs

State of Haryana

.....Respondent

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

Present:Mr. Parveen Kaushik, 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 case bearing FIR No.0281 dated 07.08.2020 registered under Section 376 IPC, Section 4 of the Protection of Children from Sexual Offence Act, 2012 and Section 3(2)(v) of the Scheduled Caste and Scheduled Tribe (Prevention of

Atrocities) Act, 1989 at Police Station IMT, Rohtak, District Rohtak.

Complainant is 15 years of age and alleged that on the intervening night of 06/07/08.2020, she was sleeping in her house. At about 11:30 PM, the petitioner came to the house and made her to awake. He took her to his shop where he did bad act with her. She returned to her house in the morning and told the incident to her uncle. Statement of prosecutrix was recorded under Section 164 Cr.P.C, where she has admitted that she went to the shop of the petitioner of her own will. Nobody saw her going there. She sat with the petitioner and talked about the previous case where the complaint was lodged against Manjeet, Naseeb and Rohit. In the earlier case, the accused made some dirty video of the prosecutrix and did wrong act with her. Prosecutrix and the petitioner talked about that case. She has further alleged that the petitioner also did wrong act with her, but the same was done with her consent. At about 2:00/2:30 AM, she heard voice of her mother and uncle, then the petitioner made her to go at the roof of his shop and from there, she entered her house through roof. Her uncle gave beating to her and she ran away from the house and thereafter took a lift on a motorcycle.

Learned counsel for the petitioner submits that

statements of the prosecutrix recorded in the FIR as well as under Section 164 Cr.P.C are at some variance. Petitioner has not done any wrong act forcibly, rather prosecutrix has voluntarily submitted herself. She had the background of some earlier case, wherein she lodged one FIR against Manjeet, Naseeb and Rohit.

Learned State counsel on instructions from SI Budh Singh however opposed the bail on the ground that prosecutrix is minor and her consent is of no consequence. FSL report has not been received. Challan has already been presented.

Medico legal report of the prosecutrix indicates that she has not suffered any injury. Petitioner is in custody since 08.08.2020. The complicity of the petitioner would remain debatable in view of statement of prosecutrix under Section 164 Cr.P.C.

At this stage, in view of the situation arising out due to COVID-19 pandemic and without adverting to the merits of the case, I deem it appropriate to enlarge the petitioner on regular bail.

In view of above, petition is allowed. Petitioner is ordered to be released on regular bail, subject to his furnishing adequate bail bonds/surety bonds to the satisfaction of the trial

Court/concerned Duty Magistrate.

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

23.11.2020

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**(RAJ MOHAN SINGH)
JUDGE**

Whether speaking/reasoned Yes/No

Whether reportable Yes/No