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

CRM-M-41431-2019 (O&M)

Date of decision: 28.02.2020

KUNAL KUMAR @ KRISHAN

... Petitioner

versus

STATE OF PUNJAB

.... Respondent

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr. Sandeep Arora, Advocate,
for the petitioner.

Mr. Hittan Nehra, Additional Advocate General, Punjab

HARI PAL VERMA, J. (Oral)

CRM-2130-2020

Prayer in this application filed under Section 482 Cr.P.C. is to place on record the statement of PW-1 Palak as Annexure P-4.

For the reasons stated in the application, same is allowed and the statement of PW-1 as Annexure P-4 is taken on record.

CRM-M-41431-2019

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.43 dated 14.04.2019 registered under Sections 376, 354-B, 120-B of IPC and Sections 4 and 8 of POCSO Act, 2012 at Police Station Kartarpur, District Jalandhar.

Learned counsel for the petitioner states that the petitioner is in custody since 15.04.2019. He refers to the statement of the prosecutrix examined in the case on 26.11.2019 to contend that the prosecutrix is very

categorical about the petitioner. She has stated that she has made a false statement under Section 164 Cr.P.C. that the petitioner has committed excesses upon her. She has seen the petitioner for the first time in the court. The alleged incident has taken place on 29.01.2019, whereas the present FIR was registered on 14.04.2019. There is no medical evidence in the case so as to support the case of the prosecutrix qua the petitioner.

Learned State counsel does not dispute the custody and the statement of the prosecutrix. However, he submits that the prosecutrix has made a statement under Section 164 Cr.P.C. against the petitioner along with other co-accused who have committed excesses upon her. He further states that though the alleged incident has taken place on 29.01.2019 and the FIR was registered on 14.04.2019, as the father of the prosecutrix who was otherwise living abroad and has returned to India on 05.04.2019 and it is thereafter, the present FIR was registered on 14.04.2019. There is a complete justification in lodging the FIR. The victim in the case is a girl of 13 ½ years of age.

I have heard learned counsel for the parties.

Petitioner is in custody since 15.04.2019. The statement of the prosecutrix, recorded on 26.11.2019, reveals that the petitioner has neither tried to commit any excesses upon the prosecutrix nor he tried to establish relations with her. Further, while deposing before the court, the prosecutrix has stated that she made a false statement against the petitioner under Section 164 Cr.P.C. that he has committed excesses upon her. Medical evidence in the case does not support the case of the prosecutrix qua the petitioner. In this manner, culpability is yet to be established during the

trial. Thus, this Court 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.

It is made clear that the petitioner shall not extend any threat and shall not influence any prosecution witnesses in any manner directly or indirectly.

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

28.02.2020
sanjeev

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