

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

Criminal Misc. No.M-51480 of 2019

Date of Decision: 27.02.2020

Barkat Ansari

...Petitioner (s)

Versus

State of Haryana

...Respondent(s)

CORAM:- HON'BLE MR. JUSTICE HARI PAL VERMA

Present:- Mr. Neha Rana, Advocate for
Mr. Abhimanyu Singh, Advocate
for the petitioner.

Ms. Gaganpreet Kaur, AAG, Haryana.

HARI PAL VERMA, J. (Oral)

Prayer in the present petition filed under Section 439 of the Code of Criminal Procedure, 1973 is for grant of regular bail to the petitioner in case FIR No.467 dated 29.09.2019 under Sections 363, 366-A IPC and Section 6 POCSO Act registered at Police Station Sector 53, District Gurugram.

The aforesaid FIR was registered at the behest of the complainant who is mother of the prosecutrix. As per the FIR, on 28.09.2019 at about 7.45 A.M., the prosecutrix went to her school but did not reach there. The complainant received a phone call from the school that the prosecutrix has not come present in the school. Therefore, necessary search was made and in this manner, the FIR in question was registered.

Learned counsel for the petitioner has argued that apart from the fact that the petitioner is in custody since 14.10.2019, neither the prosecutrix (PW-3) nor the complainant (PW-2), who is her mother, have supported the case of the prosecution. Rather, they have been declared hostile. In support of his arguments, counsel for the petitioner has produced photocopies of the statements of PW-2 and PW-3 in Court.

Learned State counsel submits that though the prosecutrix was subjected to medical examination, but semen was not found on her person. She further states that the prosecutrix was minor.

I have heard learned counsel for the parties.

Admittedly, the crucial witnesses i.e. PW-3 prosecutrix and PW-2 complainant, who is mother of the prosecutrix, have not supported the case of the prosecution, rather they have been declared hostile. Considering the fact that the petitioner is in custody since 14.10.2019 and culpability of the petitioner is yet to be decided during trial, this Court deems it appropriate to release the petitioner on regular bail.

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

However, it is made clear that the observation made hereinabove shall not be construed as an expression on the merits of the case.

February 27, 2020
AK

(**HARI PAL VERMA**)
JUDGE

Whether speaking / reasoned?
Whether reportable?

Yes / No
Yes / No