

220.

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

CRM-M-52600-2019

Date of decision: 12.02.2020

SANTOKH LAL @ TONI

... Petitioner

versus

STATE OF PUNJAB

.... Respondent

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr. Daygeesh Kumar Bhatti, Advocate,
for the petitioner.

Mr. Hittan Nehra, Additional Advocate General, Punjab.

HARI PAL VERMA, J. (Oral)

Prayer in the present petition filed under Section 439 Cr.P.C. is for grant of regular bail to the petitioner, pending trial, in case FIR No.33 dated 26.02.2019 registered under Section 376 of IPC and Sections 4, 6, 8 of POCSO Act, 2012 at Police Station Division No.6, Jalandhar.

As per the FIR, on 25.02.2019 at about 10 AM, the complainant has gone to attend cremation of her uncle at Shahkot and her two daughters were at home. However, sister of the complainant Jyoti wife of Rahul, resident of Jalandhar, has gone to see the daughter of the complainant and she found that the petitioner is coming out from the house of the complainant in a hasty manner and he ran away quickly towards the locality. The complainant was informed about the incident by Jyoti. Resultantly, the complainant came back to her house and found that her younger daughter was very much scared and it seems as if she has been raped. On asking the

prosecutrix, the complainant and her sister came to know that she has been raped by the petitioner.

Learned counsel for the petitioner has argued that the petitioner is in custody since 27.02.2019 and there is no medical evidence to support the case of the prosecution as regard the allegation of rape. The petitioner is none else but the real cousin of the prosecutrix. There are family disputes between them. He refers to the FSL report dated 01.05.2019 to show the result of such examination where it has been reported that human semen was not detected on Exhibits A-1(a), A-(b), A-2(a) and A-2(b). As against 16 witnesses cited by the prosecution, only one witness has been examined.

Learned State counsel does not dispute the custody and the medical report.

I have heard learned counsel for the parties.

In view of the result of the examination as referred in the FSL report that human semen was not detected on Exhibits A-1(a), A-(b), A-2(a) and A-2(b), this Court finds that culpability of the petitioner is yet to be established during the course of trial. Moreover, trial in the case will take sufficient long time. 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

12.02.2020
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Whether speaking/reasoned?	Yes/No
Whether reportable?	Yes/No