

215 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-2285-2021

Date of Decision: 2.11.2021

Aman alias Ramphal

..... Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Narender Pal Bhardwaj, Advocate, for the petitioner.

Mr. B.S.Virk, Deputy Advocate General, Haryana.

Rajesh Bhardwaj, J. (ORAL)

Prayer in the present petition is for grant of regular bail to the petitioner in case FIR No.11 dated 4.2.2020 registered under Sections 376, 506 IPC and under Section 6 of POCSO Act, 2012 at Women Police Station, Kaithal.

The FIR in the present case was lodged by the complainant, who is the mother of the victim. It was alleged that her husband died five years ago and she has three daughters and one son. Her daughter i.e. the victim (name concealed) was 16 years of age, told her mother i.e. the complainant that the petitioner, Aman gave her a phone a month back and used to call her on the same. Few days prior he called her in the night at his home. He took her into the room and committed rape with her against her will. Again on 1.2.2020, the petitioner called her at his home and committed rape with her and thereafter threatened to kill her. Request was made to take legal action against the accused. The petitioner was arrested on 5.2.2020 and he approached the learned Sessions Judge for grant of bail under Section 439

Cr.P.C. The learned Court after hearing the parties, declined to grant bail vide its order dated 29.10.2020. Aggrieved by the same, the petitioner has approached this Court by way of filing the present petition.

Learned counsel for the petitioner has contended that the petitioner has been falsely implicated in the FIR and no offence as alleged is made against him. He submits that there are no injuries on the body of the prosecutrix, which would depict that the prosecutrix was a consenting party and hence, no offence under Section 376 IPC is made out against the petitioner. He further submits that the medical of the prosecutrix was conducted and perusal of the same do not corroborate the ocular version of the complainant. He further submits that in the statements under Section 161 Cr.P.C., the prosecutrix has stated that she had a liking for the petitioner but in her statement under Section 164 Cr.P.C. she improved her statement and implicated the petitioner with an afterthought. He submits that there are contradictions and improvement in the statements of the prosecutrix as well as her mother at every stage. The sum and substance of the arguments raised by the petitioner is that there is no reliable evidence on record for proving the allegations against the petitioner and hence, his incarceration is totally unwarranted and he deserves to be enlarged on bail.

Learned State counsel has vehemently opposed the same and submitted that the prosecutrix is a minor and hence, her consent carries no weight. He has submitted that there are specific allegations against the petitioner having committed aggravated penetrative sexual assault on the minor. He further submits that the evidence before the trial Court is yet to be concluded and releasing the petitioner on bail may hamper the ongoing

trial.

I have heard learned counsel for the parties.

There is no denial to the fact that the victim is minor and there are specific allegations of having committed aggravated penetrative sexual assault on the victim. The evidence is yet to be concluded. In the overall facts and circumstances, the Court is of the opinion that the petitioner does not qualify to be enlarged on bail at this stage. The petition being devoid of any merit is hereby dismissed.

(RAJESH BHARDWAJ)
JUDGE

2.11.2021
sharmila

Whether Speaking/Reasoned	:	Yes/No
Whether Reportable	:	Yes/No