

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

207

**CRM-M-7251-2021
Decided on : 08.03.2021**

Sunil

... Petitioner(s)

Versus

State of Haryana

... Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

(Through Video Conferencing)

PRESENT: Mr. Ivneet Singh Pabla, Advocate
for the petitioner(s).

Ms. Tanushree Gupta, DAG, Haryana
assisted by SHO Darambir Singh.

MANJARI NEHRU KAUL, J. (Oral)

The instant petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case FIR No. 167, dated 07.09.2020, under Section 6 of the POCSO Act, 2012 and Section 3(2)(V) of SC/ST ACT, registered at Police Station City Narwana, Haryana.

Learned counsel for the petitioner contends that on the face of it, a false and fabricated case has been foisted upon the petitioner, which is evident from the fact that in the FIR which was recorded on 07th September, 2020, the prosecutrix alleged that a boy by the name of Abhi, who was a resident of Karnal, had committed rape upon her, as a result of which, she had conceived. However, thereafter the said pregnancy had miscarried. Learned counsel has further drawn the attention of this Court to Annexure P-2, which is the statement of the prosecutrix recorded under Section 164 Cr.P.C. on 11.09.2020, wherein, she had reiterated that she had been raped

by one Abhi, who was a resident of Karnal and who was running a “Parchoon Shop”.

Learned counsel for the petitioner has submitted that thereafter the prosecutrix took a u-turn and came up with an altogether contrary statement and got her second statement recorded under Section 164 Cr.P.C. on 20.11.2020. In her second statement recorded under Section 164 Cr.P.C., the prosecutrix for the first time levelled allegations against the petitioner of having raped her and being responsible for her pregnancy. Learned counsel has also submitted that there was no medical evidence on record to connect the petitioner with the alleged crime. He has submitted that the petitioner has been in custody since 20th September, 2020 and only challan has been presented till date.

Per contra, learned State counsel while opposing the prayer and submissions of learned counsel for the petitioner, on instructions from SHO Darambir Singh, has fairly admitted that no sample was sent for DNA profiling after the prosecutrix miscarried. She has also not been able to controvert the fact that the prosecutrix had come up with contrary statements subsequent to the registration of the FIR, inasmuch as, in the first instance, she levelled allegations of rape against one Abhi and thereafter in her second statement recorded under Section 164 Cr.P.C., she levelled allegations against the petitioner, who admittedly was not a resident of Karnal but of Jind and was not even known as Abhi.

Heard.

In view of the submissions made by learned counsel for the parties, I deem it a fit case for grant of the concession of regular bail to the petitioner, as the trial is unlikely to conclude in the near future, more so, in

the prevailing conditions due to the outbreak of COVID-19. The petition as such is allowed and the petitioner is admitted to bail to the satisfaction of trial Court/Duty Magistrate. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

(MANJARI NEHRU KAUL)
JUDGE

March 08, 2021

J.Ram

Whether speaking/reasoned: *Yes/No*
Whether Reportable: *Yes/No*