

206.

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

CRM-M-26450-2021

Date of Decision: 22.11.2021

(Heard through VC)

SACHIN @ MOTA

.... Petitioner

Versus

STATE OF HARYANA

.... Respondent

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. Rohit Mittal, Advocate,
for the petitioner.

Mr. Kuldeep Tiwari, Additional Advocate General, Haryana.

Mr. Mahir Sood, Advocate for complainant.

JAISHREE THAKUR.J (Oral)

This is a petition that has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner, who is in custody since 10.03.2021 in FIR No.57, dated 26.02.2021 registered under Sections 363, 366-A of IPC and Section 18 of the POCSO Act at Police Station City Mohindergarh, District Mohindergarh.

Learned counsel for the petitioner, while praying for grant of regular bail, would contend that the prosecutrix willingly left her parental home on her own accord and she has in fact stated that no wrong was done to her, even though there is an allegation that the petitioner herein had tried

to commit the offence of rape. It is argued that the minor remained in his company for a period of more than 20 days and even travelled in a bus and, therefore, could have raised hue and cry at any point in time alleging that she had been kidnapped, which is not the case. It is submitted that the statement of the prosecutrix was recorded and even though she has supported the case of the prosecution, the trial is not likely to conclude in a haste as only the prosecutrix stands examined out of 10 witnesses cited and the next date of hearing is 24.01.2022.

On the other hand, learned State counsel opposes the grant of regular bail while stating that even though there is no offence of Section 376 IPC made out in the FIR, the prosecutrix is aged 15 years old and any consent purported/alleged to have been given, cannot be taken into consideration and, therefore, the petitioner herein would not be entitled to regular bail.

I have heard learned counsel for the parties and without giving any opinion on merits of the case, deem it appropriate to release the petitioner on regular bail considering the fact that the statement of the material witness has been recorded and the petitioner herein would not be in a position to influence her testimony. The other witnesses most of them are official witnesses and, therefore, the petitioner would not be in a position to influence them. On the asking of the Court whether there is any medical available, learned State counsel would submit that there is none.

Accordingly, the instant petition is allowed and the petitioner is directed to be released on regular bail on execution of adequate personal

bond and surety bond to the satisfaction of concerned trial Court/Duty Magistrate.

However, any observation made herein shall not be construed to be an expression of opinion on merits of the case.

22.11.2021

sanjeev

**(JAISHREE THAKUR)
JUDGE**

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