

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

CRM-M-24625 of 2020.

Decided on:- March 18, 2021.

Vipin Kumar.

.....Petitioner.

Versus

State of Punjab.

.....Respondent.

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

Present:- Mr. Charanpreet Singh, Advocate
for the petitioner.

Mr. Ramandeep Sandhu, Sr. D.A.G, Punjab.

HARI PAL VERMA, J. (Oral)

The matter has been taken up for hearing through video conferencing due to outbreak of COVID-19.

The petitioner has filed this petition under Section 439 Cr.P.C. for grant of regular bail in FIR No.283 dated 03.12.2019 under Sections 363 and 366 IPC and Sections 3 and 4 of the Protection of Children from Sexual offence Act, 2012 registered at Police Station Sahnewal, District Ludhiana.

The aforesaid FIR was registered on the basis of information given by complainant Bhola Paswan. As per the FIR, the complainant along with his family was residing at village Jaspal Bangar. He has 8 children. The prosecutrix is daughter of the complainant and is aged about 15 years and she has studied upto 4th standard. After completion of her studies, she started

doing household work in the house of Visakha Singh son of Harnek Singh and she used to reside in his house. On 29.11.2019 at about 07.00 P.M., when the complainant returned to his house, his son Sikandar Paswan informed him that the prosecutrix is missing since 06.30 P.M. from the house of Visakha Singh. The complainant and his family members tried to trace out the prosecutrix. Later on, a telephonic message was received by the complainant from Nyayapith Bal Kalyan Samiti, Kanpur (U.P.) that the prosecutrix was present in their institute and the accompanying boy has fled away. On 02.12.2019, the complainant went to the aforesaid institute in U.P. to brought the prosecutrix. The prosecutrix informed him that Vipin Kumar (petitioner herein) took her away on the pretext of marriage. Accordingly, the FIR was registered.

Learned counsel for the petitioner has submitted that the petitioner is in custody since 03.12.2019 and has falsely been implicated in the present case. The statement of the prosecutrix was recorded under Section 164 Cr.PC, wherein she has not made any allegation of rape against the petitioner.

Learned State counsel, on instructions from ASI Sadhu Singh, has not disputed the custody of the petitioner and the fact that in her statement under Section 164 Cr.PC, the prosecutrix has not made any allegation of commission of rape against the petitioner. However, he has argued that the prosecutrix in the case is a minor girl and there are serious allegations against the petitioner. As per the birth certificate issued by the Government Primary School of village Jaspal Bangar, the date of birth of the prosecutrix is 01.03.2004 and as such, the offence under Section 366-A IPC was added in

the case. He has produced the copy of FSL report of the Forensic Science Laboratory, SAS Nagar, which is taken on record.

I have heard learned counsel for the parties.

The petitioner is in custody since 03.12.2019. It has not been controverted by learned State counsel that in her statement under Section 164 Cr.PC, the prosecutrix has not made any allegation of commission of rape against the petitioner. In the FSL report, it has been concluded as under:

“1. Human semen and male DNA was not detected on the Exhibits B-1 to B-6 (Source: Vaginal swabs and smears on slides stated to be of the victim).

2. DNA profile obtained from the female fraction of the Exhibits B-1 to B-6 (Source: Vaginal swabs and smears on slides stated to be of the victim) is identical with the genetic profile obtained from the Exhibit C (Source: Reference blood stated to be of the victim).”

Therefore, considering the period of custody of the petitioner and the FSL report, wherein human semen and male DNA was not detected on Exhibits B-1 to B-6 i.e. vaginal swabs and smears on slides stated to be of the victim, this Court deems it appropriate to admit the petitioner on bail.

Accordingly, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing adequate bail bonds and surety bonds to the satisfaction of learned trial Court.

It is made clear that the petitioner shall not try to influence the prosecution witnesses during the course of trial in any manner. During the pendency of trial, he shall also not stay in the vicinity, where the prosecutrix is residing.

The observations made hereinabove shall not be construed as any expression of opinion on the merits of the case. The trial Court shall decide the case without being influenced with these observations in any manner.

March 18, 2021
Yag Dutt

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned:

Yes

Whether Reportable:

No