

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

277

**CRM-M-33221-2021
Decided on : 29.11.2021**

Rakesh alias Gattu

... Petitioner(s)

Versus

State of Haryana

... Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

PRESENT: Mr. K.S. Sekhon, Advocate
for the petitioner.

Mr. Gagandeep Singh Chhina, AAG, Haryana
assisted by ASI Sharda Rani.

MANJARI NEHRU KAUL, J. (Oral)

This is the second petition filed under Section 439 Cr.P.C. for grant of bail to the petitioner in case FIR No. 248, dated 11.07.2020, under Sections 377, 506 of IPC and Section 6 of the POCSO Act, 2012, registered at Police Station Sadar Fatehabad, District Fatehabad.

Learned counsel for the petitioner contends that the petitioner has been falsely implicated in the case in hand, which is evident from the fact that the victim (aged 11 year) while stepping into the witness-box as PW-2, did not support the case of the prosecution. Learned counsel submits that even the parents of the victim, who stepped into the witness-box as PW-4 & PW-5, turned hostile during trial. Further submits that the Medico Legal Report (MLR) of the victim also does not support the case of the prosecution. A prayer has, therefore, been made that since the petitioner, who has been in custody since 13th July, 2020, be extended the concession of bail, as his further incarceration would not serve any useful purpose.

Per contra, learned State counsel has vehemently opposed the prayer made by learned counsel for the petitioner. She, on instructions from ASI Sharda Rani, has submitted that the trial is nearing completion as 14 out of the 19 prosecution witnesses cited, have been examined. Learned State counsel has further submitted that no doubt the

victim did not support the case of the prosecution, but it was for reasons but obvious. He has invited the attention of this Court to the reply filed by the State and in particular to the MLR of the victim (Annexure R-1), which was conducted soon after the occurrence in question. Learned State counsel has submitted that a perusal of the MLR clearly reveals that 11 years old boy on being medically examined, complained of anal pain and was bleeding as well. On examination, fissure of the anal was also detected.

Learned State counsel has further submitted that while getting his statement recorded under Section 164 Cr.P.C., the 11 year old victim had reiterated the allegations levelled in the FIR, which in turn found corroboration with the MLR.

I have heard learned counsel for the parties and perused the material on record.

Prima facie, there are serious and specific allegations against the petitioner of sexually violating an 11 year old boy. Moreover, as submitted by the learned State counsel that trial is nearing conclusion, this Court does not deem it fit to extend the concession of bail to the petitioner.

Petition stands dismissed. It is, however, made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merit of the case.

(MANJARI NEHRU KAUL)
JUDGE

November 29, 2021

J.Ram

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No