

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH
(through video conferencing)**

CRM-M-34633-2021
Decided on : 17.09.2021

Ritik Sharma

..... Petitioner

Versus

State of UT, Chandigarh

..... Respondent

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Rakesh Nehra, Sr. Advocate with
Mr. Chirag Kundu, Advocate
for the petitioner.

Mr. A.M.Punchhi, Public Prosecutor
UT, Chandigarh.

Manjari Nehru Kaul, J.

Instant petition has been filed under Section 439 Cr.PC for grant of regular bail to the petitioner in case FIR No.14 dated 10.02.2021 registered under Sections 376 IPC,1860 and Section 6 of POCSO Act at Police Station Mauli Jagran, Chandigarh.

The victim, aged 16 years, was scolded by her father for returning home late on 01.07.2020 as a result of which she left the house in a fit of anger. The father of the victim thereafter got FIR No.98 registered at Police Station Sector 20, Panchkula on 03.07.2020 wherein he requested the police to search for her. After eight months, the victim was traced and recovered by the police from Mauli Jagran, as a result, Zero FIR under Section 6 of POCSO Act was registered at Police Station Sector 20, Panchkula. In the statement of the victim, which led to the registration of the FIR in question, the victim corroborated the version given by her father

in FIR No.98 dated 03.07.2020, that on being scolded she had left her house in a fit of anger. Besides this, she also gave out details of how she went and stayed at various places with the help of her friends, after leaving her house on 01.07.2020. She further stated that on 15.08.2020 she telephoned the petitioner. However, since the petitioner's parents did not allow her to stay in their house, without her parents' permission, the petitioner and the victim rented a room and started living together wherein she established physical relations with the petitioner of her own free will.

Learned senior counsel for the petitioner inter alia contends that the petitioner, who has been in custody since 11.02.2021, has been falsely implicated in the FIR in question, which is evident from the fact that the victim did not allege anything against the petitioner much less of enticing her away. He further contends that at the time of lodging of FIR No.98 on 03.07.2020 also, the father of the victim did not raise any suspicion qua anyone much less the petitioner. Learned counsel submits that the petitioner, who was a friend of the victim, just tried to help her out, like her other friends, after she left her house on being reprimanded by her father. Learned senior counsel submits that a perusal of all the statements recorded right from the time the victim went missing i.e. statement of the father of the victim made on 03.07.2020, the statement of the victim at the time of registration of Zero FIR on 05.02.2021, the statement of the victim recorded under Section 164 Cr.PC on 04.02.2021 are in total sync with each other and find further corroboration from the deposition of the victim before the trial court as PW-1. In support of his submissions, learned senior counsel has drawn the attention of this Court to the statement of the victim recorded

under Section 164 Cr.PC (Annexure P-2) and her deposition before the trial Court as PW-1 (Annexure P-3). Learned senior counsel submits that since the victim, who is material witness, already stands examined, the petitioner be extended the concession of bail as his further custody would not serve any purpose.

Learned State counsel on the other hand while opposing the prayer of the petitioner has not been able to controvert the submissions made by learned senior counsel qua the contents of the statement of the victim made at the time of registration of Zero FIR on 05.02.2021 as well as her statement recorded under Section 164 Cr.PC in addition to her deposition made as PW-1 wherein the victim did not blame the petitioner of any wrong doing. He has submitted that though the victim did not support the case of the prosecution qua rape having been committed upon her by the petitioner, for which she was declared hostile, however, the medico-legal report of the victim as well as the FSL report annexed with the reply filed by the State corroborated the factum of the petitioner having established physical relations with the victim. He further prays that the instant petition be dismissed, more so, since the victim was a minor, aged 16 years and her consent, if any, would be of no consequence.

Heard learned counsel as well as perused the material available on record.

In view of the submissions made by learned counsel and the fact that the only material witness i.e. the victim already stands examined, the instant petition stands allowed. The present petition is allowed and the petitioner be admitted to bail to the satisfaction of the 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.

17.09.2021
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(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned:	Yes
Whether reportable :	Yes