

212.

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

CRM-M-29862 of 2020

Date of decision: 27.04.2021.

Rakesh Kumar

... Petitioner

versus

State of Punjab

.... Respondent

CORAM : HON'BLE MR.JUSTICE AMOL RATTAN SINGH

Present: Mr. Krishan Kahna, Advocate, for
Mr. Narinder Lucky, Advocate,
for the petitioner.

Mr. Sidakmeet Singh Sandhu, A.A.G., Punjab.

AMOL RATTAN SINGH, J. (Oral)

Case heard via video conference.

By this petition, the petitioner seeks the concession of 'regular bail' under the provisions of Section 439 Cr.P.C., upon FIR No.97, dated 18.06.2019, having been registered at Police Station Chheharta, Police Commissionerate Amritsar, alleging therein the commission of offences punishable under Section 376 of the IPC and Section 6 of POCSO Act, 2012 (with Section 506 IPC added later).

Learned counsel for the petitioner submits that the petitioner having been in custody since June, 2019, he deserves to be admitted on bail.

Learned State counsel submits that if the period of parole is deducted from his actual custody, he has actually been in custody for 1 year and 8 months.

A perusal of the reply filed on behalf of the respondent State, by the ACP, Amritsar City, shows that as per the forensic examination, a 14 to 16 year old girl was subjected to sexual intercourse with spermatozoa also detected from the vaginal swab.

That being so, with the petitioner shown to be 46 years old, even if she was a consenting party since she is stated to have not reported the matter over some time, looking at the age of the petitioner and that of the prosecutrix, I see no reason to continue with this petition, which is consequently dismissed.

It is to be noticed that as regards she being a willing party, learned counsel submits that it is not his contention at all.

That is obviously so and that has been observed only by this Court, in view of the fact that it is stated in the reply that she kept silent on the first few occasions that the rape was committed (as alleged).

However, it is made absolutely clear that no comment made hereinabove or in any previous order passed, will be taken to be one on the actual merits of the case for or against the petitioner, but wholly and only in the context of this petition filed under the provisions of Section 439 Cr.P.C., with the trial Court, naturally, to proceed wholly on the basis of evidence led before it.

The reply filed on behalf of the respondent State is ordered to be taken on record.

(AMOL RATTAN SINGH)
JUDGE

27.04.2021

sanjeev

Whether speaking/reasoned?

Yes/No

Whether reportable?

Yes/No