

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

CRM-M-32939 of 2020 (O&M)

Decided on:- March 26, 2021.

Charanjit Singh @ Chann Singh.

.....Petitioner.

Versus

State of Punjab.

.....Respondent.

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

Present:- Mr. R.K. Handa, 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.

CRM-30506-2020

Documents i.e. copy of Challan under Section 173 Cr.PC as Annexure P-3 and the copy of MLR as Annexure P-4 are taken on record, subject to all just exceptions.

CRM stands disposed of.

CRM-M-32939-2020

The petitioner has filed this petition under Section 439 Cr.P.C. for grant of regular bail in FIR No.43 dated 11.03.2020 under Sections 376 and 506 IPC as well as Sections 4 and 6 of the Protection of Children from

Sexual offence Act, 2012 (for short, the POCSO Act) registered at Police Station Lalru, District SAS Nagar (Mohali).

The aforesaid case was registered against the petitioner on the statement of the prosecutrix, who is about 17 years of age and is a student of 10+1 class. As per the FIR, the prosecutrix used to go to Gurudwara Sahib at 06.00 A.M. The petitioner used to intercept her and he took her to a room opposite to Gurudwara Sahib, where he used to make forcible physical relations with her. She tried to disclose the misdeeds of petitioner to her parents, but he threatened to eliminate her parents due to which she did not disclose anything to her parents. On 11.03.2020, she had pain in her stomach and she informed her mother, who took her to Civil Hospital, Dera Bassi. On these allegation, the present FIR was registered against the petitioner.

Learned counsel for the petitioner has argued that there is no specific date and time when the prosecutrix was subjected to rape. There is no medical evidence in the case, so as to establish the fact that the rape was committed by the petitioner. He refers to the CFSL report dated 23.06.2020 (Annexure P-1) to contend that the presence of semen could not be confirmed on vaginal swabs (Exhibit-01) and two other swabs (Exhibit-02B) of the prosecutrix. Further, no male DNA profile could be recovered from the Exhibits-01 and 02B. Therefore, DNA profiles from Ex-02A (blood sample of the prosecutrix) and Ex-03 (blood sample of the petitioner) were not generated.

He has further submitted that the petitioner is in custody since 13.03.2020. Charges have been framed against the petitioner and there is no statement of the prosecutrix under Section 164 Cr.P.C.

Learned State counsel has submitted that the allegations against the petitioner are serious in nature. The prosecutrix was taken to the Court of Magistrate at two different occasions, but her statement under Section 164 Cr.PC could not be recorded due to lockdown.

I have heard learned counsel for the parties.

The conclusion of CFSL report dated 23.06.2020 (Annexure P-1) attached with the present petition reads as under:

“Observations: From the above results, it is observed that:

- (i) Presence of semen could not be confirmed on vaginal swabs (Exhibit-01) and two other swabs (Exhibit-02B) of victim Komalpreet Kaur. Spermatozoa also could not be observed in Exhibit-01 and Exhibit-02B.*
- (ii) No male DNA profile could be recovered from the Exhibits-01 and 02B. Hence, DNA profiles from Ex-02A (reference blood sample of Komalpreet Kaur) and Ex-03 (reference blood sample of Charanjit Singh) were not generated.”*

The petitioner is in custody since 13.03.2020. Charges have been framed in the case and the statement of prosecutrix under Section 164 Cr.PC was not recorded. Moreover, considering the CFSL report (Annexure P-1), this Court finds that the involvement of the petitioner is to be established during the course of trial, which is not likely to be concluded in near future. Therefore, 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 in any manner. Till the prosecutrix is examined in the case, he shall not stay in the vicinity where the prosecutrix is residing. He shall not leave the country without prior permission of the Court.

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 26, 2021
Yag Dutt

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned:	Yes
Whether Reportable:	No