

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

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**CRM-M-38358-2021
Decided on : 21.09.2021**

Bhupinder Rawat @ Soni

... Petitioner(s)

Versus

State of U.T. Chandigarh

... Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

(Through Video Conferencing)

PRESENT: Mr. S.L. Chander Shekhar, Advocate
for the petitioner(s).

Mr. Anupam Bansal, Addl. PP, UT Chandigarh
assisted by SI Major Singh.

MANJARI NEHRU KAUL, J. (Oral)

This is the second petition filed under Section 439 Cr.P.C. seeking grant of bail to the petitioner, in case FIR No. 0435, dated 01.12.2019, registered under Sections 376(3), 506 of IPC & Sections 4, 6 of the POCSO Act, 2012, lodged at Police Station Sector 39, Chandigarh.

On a query put to the learned counsel for the petitioner *qua* the change in circumstances, if any, subsequent to the dismissal of the previous petition, learned counsel has failed to satisfy this Court *qua* any substantial change in the circumstances subsequent to the dismissal of the previous petition on 17th August, 2021.

Be that as it may, it is a case of the petitioner that a false case has been planted upon the petitioner. In support of his submission, he has invited the attention of this Court to the MLR dated 26th September, 2019 (annexed as Annexure P-2), wherein, the history was given as under:-

*“History of nonconsensual/forced intercourse by unidentified
man 5 months back. Now coming with pregnancy of 22w 5d.*

The incident took place at Baliya, Uttar Pradesh in April, 2019.”

Learned counsel submits that in the FIR in question, which was got registered on 01st December, 2019, under Sections 376(3), 506 of IPC and Sections 4 & 6 of the POCSO Act, at Police Station Sector 39, Chandigarh, the complainant implicated the petitioner by leveling allegations of rape as well as threats of dire consequences. Learned counsel further submits that on account of a dispute between the families, a fabricated case had been planted upon him. A prayer was, therefore, made to extend the concession of bail to the petitioner, as he had been in custody since 01st December, 2019.

Per contra, learned APP, UT Chandigarh while vehemently opposing the prayer and submissions made by the counsel opposite, has submitted that the victim was a 13 years old girl, who was sexually violated by none other than the petitioner aged 37 years, as a result of which, she became pregnant. He has submitted that no doubt in the MLR, the victim had given a history of sexual assault having been committed upon her five months preceding the medical examination, however, as per the CFSL report, there was a definite opinion given that the petitioner and the victim were the biological parents of the aborted fetus. Learned APP, UT Chandigarh, has further submitted that in the wake of the report received from the CFSL, the notes given by the Doctor at the time of the medical examination of the victim, were inconsequential.

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 (aged about 37 years) of having committed rape upon a minor aged 13 years old girl, as a result of which, she became pregnant. This Court, thus, does not deem it appropriate to extend the concession of bail to the petitioner. Petition stands dismissed accordingly.

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

(MANJARI NEHRU KAUL)
JUDGE

September 21, 2021

J.Ram

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No