

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH
(Through Video Conferencing)**

225

CRM-M-40841-2021(O&M)

Decided on : 05.10.2021

SAHIL

... Petitioner(s)

Versus

STATE OF HARYANA

... Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

PRESENT: Mr. Mohammad Arshad, Advocate
for the petitioner.

Ms. Tanushree Gupta, DAG Haryana
assisted by PSI Pawan.

MANJARI NEHRU KAUL, J. (Oral)

This is the 2nd petition filed under Section 439 Cr.P.C., for grant of regular bail to the petitioner in case FIR No.34 dated 24.02.2020 under Section 6 of the POCSO Act registered at Police Station Bichhore, Tehsil Punhana, District Nuh Mewat.

Learned counsel *inter alia* contends that a highly improbable story has been put forth in the FIR in question against the petitioner of having sexually molested and violated the person of the daughter of the complainant, aged 5 years, after gagging her mouth. He contends that on account of a previous enmity between the petitioner and the father of the victim, regarding some money dispute, a false and fabricated case had been planted upon the petitioner. It has been submitted that the petitioner was a juvenile on the date of alleged occurrence, as he was just 17 years of age

and in the circumstances his custodial interrogation would not be required and it would be a travesty of justice, if he is not released on bail. He has further submitted that even though the petitioner was a juvenile, yet he was being tried as an adult in blatant violation of the provisions of the Juvenile Justice (Care and Protection of Children) Act, 2015.

Per contra, learned State counsel while vehemently opposing the prayer and submissions of the learned counsel for the petitioner on instructions from PSI Pawan has submitted that on the fateful day at about 11:30 AM, the complainant went searching for her daughter i.e., the victim as she had not returned home after purchasing '*panni*' from a shop. While she was searching for her daughter, the petitioner who was sexually assaulting her minor daughter was caught red handed. The victim who was weeping, was also found soaked in blood. After bringing the victim back home, the FIR in question was registered soon thereafter. Learned State counsel has further submitted that the medico legal report of the victim corroborated not only the allegations levelled in the FIR in question but also the statement of the victim recorded under Section 164 CrPC. Learned State counsel has further apprised the Court that the DNA report received from the Forensic Science Laboratory further nailed the petitioner for the crime in question. Learned State counsel while controverting the submissions of the counsel opposite qua the petitioner being tried as an adult has submitted that the order, vide which the petitioner had been ordered to be tried as an adult, had attained finality as no challenge had been made to the same. Learned State counsel has further submitted that in the wake of the serious

allegations against the petitioner of having raped a 05 year old victim, the instant petition be dismissed.

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

Prima facie, there are serious allegations levelled against the petitioner of raping a 05 years old girl for which this Court does not deem it fit to extend the concession of bail to the petitioner.

Petition stands dismissed. However, it is made clear that anything contained in this order shall not be construed to be an expression of opinion on the merits of the case.

(MANJARI NEHRU KAUL)
JUDGE

October 05, 2021
S.Sharma(syr)

<i>Whether speaking/reasoned:</i>	<i>Yes/No</i>
<i>Whether Reportable:</i>	<i>Yes/No</i>