

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

CRM-M-35311-2020 (O&M)

Date of decision : 18.08.2021

Ankush

.... Petitioner

Versus

State of Haryana

.... Respondent

CORAM : HON'BLE MR.JUSTICE RAJESH BHARDWAJ

Present: Mr. S.N. Pillania, Advocate
for the petitioner.

Mr. Manish Bansal, DAG, Haryana.

RAJESH BHARDWAJ, J. (Oral)

Matter has been taken up through video conferencing via Webex facility in the light of the Pandemic Covid-19 situation and as per instructions.

The present petition is filed under Section 439 Cr.P.C. seeking grant of regular bail in case FIR No.168 dated 20.05.2020, registered under Section 4 of POCSO Act, at Police Station Matlauda, District Panipat.

It has been contended that the petitioner was falsely implicated in the FIR and he is behind bars since 21.05.2020. Learned counsel for the petitioner submits that the FIR in question was registered by the prosecutrix wherein the allegations regarding rape were levelled. After the registration of FIR, the investigation commenced and the challan was presented. Learned counsel for the petitioner submits that the material witnesses in the present case produced by the prosecution are victim, her brother, father and mother. He has placed on record the examination of all these material witnesses which would show that all the material witnesses including the

victim have not supported the case of the prosecution and are declared hostile. He vehemently contends that in view of the same, the prosecution had no other authenticated or reliable evidence to be proved against the petitioner.

Mr. Manish Bansal, DAG, Haryana for the State submits that as the prosecutrix is minor and offence being under the POCSO Act, the petitioner does not deserve any leniency as prayed. However, he affirms the factual position regarding the material witnesses having been declared hostile.

Since petitioner is behind bars from 21.05.2020 and the material witnesses failed to support the case of the prosecutrix, I find that further incarceration of the petitioner would be unwarranted.

In the overall facts and circumstances of the case and keeping in view the custody period undergone by the petitioner, the Court finds that learned counsel for the petitioner has succeeded in making out a case for bail to the petitioner. The present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail/surety bonds to the satisfaction of the concerned trial Court/Duty Magistrate. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

(**RAJESH BHARDWAJ**)
JUDGE

18.08.2021
m. sharma

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