

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Sr. No. 216

CRM-M-35317-2020

Date of decision : 11.01.2021

Chand Alam @ Chand Mohd

..... Petitioner

VERSUS

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr.Liaqat Ali, Advocate, for the petitioner.

Mr.Amit Mehta, Sr.DAG, Punjab.

DEEPAK SIBAL, J. (ORAL)

Case taken up through video conferencing.

The present petition has been filed under Section 439 Cr.P.C. for the grant of regular bail in FIR No.81 dated 17.05.2019, registered under Sections 376/506 IPC and Section 4 of the Protection of Children from Sexual Offences Act, 2012 at Police Station Tibba, district Ludhiana.

Briefly stated, the case of the prosecution is that the prosecutrix who was a student of 9th standard in Government School, Subhash Nagar, Ludhiana was raped by the petitioner on the pretext of marrying her and giving threats of killing her brother.

Seeking regular bail for the petitioner learned counsel submits that the petitioner has been falsely implicated in the present case; he is in custody since 17.05.2019; he is not involved in any other criminal case; the prosecutrix's date of birth has wrongly been projected and that she was an adult on the date of alleged rape by the petitioner; there is no medical evidence to support the case of the prosecution; the medico legal examination of the prosecutrix revealed no injury on her body; as per the report of the Central Forensic Science Laboratory, no spermatozoa was found on her vaginal swabs and the prosecutrix while appearing before the Trial Court as PW-3 has not supported the case of the prosecution.

Learned State counsel admits to the petitioner's period of incarceration and the fact that the prosecutrix while appearing before the Trial Court has not towed the line of the prosecution and has turned hostile but opposes the grant of bail to the petitioner on the ground that the petitioner is accused of raping a minor girl.

The absence of injuries on the prosecutrix and spermatozoa on her vaginal swabs would be debated during the course of the Trial. Her correct age shall also be decided therein. However, the petitioner has been in custody since 17.05.2019 and the prosecutrix while appearing before the Trial Court has not towed the line of the prosecution and has turned hostile.

In view of the above, the present case is considered to be a fit one in which the petitioner be directed to be released on regular bail. Resultantly, subject to the satisfaction of the CJM/Duty Magistrate, Ludhiana the petitioner is directed to be released on bail.

It is clarified that the above observations have been made only for the limited purpose of deciding the present regular bail application and the same would not be construed to be an expression of opinion on the merits of the case.

11.01.2021
shamsher

[DEEPAK SIBAL]
JUDGE

Whether speaking/reasoned	:	Yes / No
Whether reportable	:	Yes / No