

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

**CRM No.M-40788 of 2021 (O&M)
Date of Decision: November 02, 2021**

Gaurav

...Petitioner

VERSUS

State of Haryana

...Respondent

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr.Rajesh Duhan, Advocate
for the petitioner.

Ms.Vibha Tewari, Addl. Advocate General, Haryana
for the respondent-State.

ARCHANA PURI, J.

The matter has been taken up through video conferencing in the light of COVID-19 pandemic.

This is a petition under Section 439 Cr.P.C. filed by the petitioner-Gaurav, thereby seeking regular bail in case bearing FIR No.530 dated 12.05.2020, under Section 10 of Protection of Children from Sexual Offences Act and Sections 323, 363, 354-A, 511 and 34 IPC, Police Station City, Panipat.

Heard on the bail petition.

As per version of the prosecution, on 11.05.2020, the prosecutrix had gone out of her house to attend the call of nature and while she was returning back, the present petitioner, namely, Gaurav, along with

his two associates, namely, Krishan alias Balu and Sandeep, had come close to her, gagged her mouth and forcibly took her away at some distance from her house and they had thrown her on the ground. They removed her shirt, vest and then tried to untie her *salwar* and to commit rape with her. They had also kissed her and also touched her breast. When she raised alarm, co-accused Sandeep threw a brick upon her, which caused injury on her left eye. All the three accused threatened her with dire consequences, if she disclose the occurrence to anyone. However, the prosecutrix was rescued by her mother, who reached the spot.

Now, it is submitted by learned counsel for the petitioner that petitioner has been falsely implicated in the present case. Initially, besides the petitioner, other two persons, namely Sandeep and Krishan alias Balu, were also nominated as accused but during the course of investigation, their names were deleted and challan has only been presented against present petitioner Gaurav. He also submits that challan was presented on 29.06.2020 and charge was framed on 17.08.2020. Since then, only 3 witnesses out of 11 cited witnesses have been examined. He also submits that petitioner is in custody since 15.05.2020. He submits that due to pandemic situation, the conclusion of the trial is likely to take time. As such, a prayer has been made for grant of regular bail to the petitioner.

On the other hand, learned State counsel has resisted the claim for bail. However, she does not dispute that initially, three persons were nominated as accused but however, challan has been presented against present petitioner Gaurav only. She does not dispute the detention period of the petitioner. She also submits that out of 11 cited witnesses, only 3

witnesses have been examined and prosecutrix has since been examined.

At first instance, petitioner had filed petition seeking regular bail and same was dismissed vide order dated 27.01.2021 by this Court, while keeping in view the stage of the case and statement of prosecutrix having not been recorded, during the course of trial. Perusal of the reply, so filed, at the instance of the State, reveals that initially, FIR was registered under Sections 323, 354-A, 511, 376 IPC and Section 10 of POCSO Act. However, during the course of checking up the challan, Section 10 of the POCSO was deleted and Sections 4, 8 and 18 of the POCSO Act were added.

The prosecutrix was 14 years old, at the relevant time. Her statement has already been recorded. Out of 11 cited witnesses, only 3 witnesses have been examined. Besides the prosecutrix, even material witnesses, complainant as well as Investigating Officer, have already been examined. The petitioner is in custody since 15.05.2020. Keeping in view the above circumstances, the conclusion of the trial is likely to take time.

Keeping in view the same and considering the detention period of the petitioner as well as considering the fact of statement of prosecutrix already having been recorded, this Court deems it appropriate to grant regular bail to the petitioner. Accordingly, the present petition is allowed and the petitioner is ordered to be released on bail subject to his furnishing personal/surety bonds to the satisfaction of the learned trial Court/Duty Magistrate concerned.

(ARCHANA PURI)
JUDGE

November 02, 2021
Vgulati

Whether speaking/reasoned
Whether reportable

Yes
No