

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

222

**CRM-M-36518-2020
Decided on : 25.08.2021**

Rahul

... Petitioner(s)

Versus

State of Haryana

... Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

(Through Video Conferencing)

PRESENT: Mr. S.S. Khurana, Advocate
for the petitioner(s).

Ms. Gaganpreet Kaur, AAG, Haryana
assisted by SI Mukesh Kumar.

MANJARI NEHRU KAUL, J. (Oral)

The instant petition has been filed under Section 439 Cr.P.C. for grant of bail to the petitioner in case FIR No. 196, dated 05.05.2020, under Sections 354-D, 365, 506, 34 of IPC and Section 6 of the POCSO Act, 2012 (Section 10 of the POCSO Act deleted and Section 6 of the POCSO Act added in the final report), registered at Police Station Bawal, Rewari.

Learned counsel for the petitioner *inter alia* contends that it was on account of previous enmity between the brother of the prosecutrix and the accused, a false criminal case was foisted upon the petitioner. He submits that the MLR of the prosecutrix does not support the factum of any sexual assault, inasmuch as, no internal or external injury was found on the person of the victim, aged 14 years. Further submits that even no semen was detected on her person and other exhibits, as per the report received from FSL. It has been submitted that the petitioner has been in custody

since 07th May, 2020, therefore, he be extended the concession of bail, as similarly situated co-accused Sachin has already been enlarged on bail.

Per contra, learned State counsel has vehemently opposed the prayer and submissions made by learned counsel for the petitioner. He, on instructions from SI Mukesh Kumar, has apprised the Court that the victim was a minor aged 14 years. He has further submitted that in her statements recorded under Section 164 Cr.P.C. and during the course of counselling, which was carried out by CWC, the victim reiterated the allegations of sexual assault levelled against the petitioner. Learned State counsel has further submitted that no doubt the co-accused Sachin had been extended the concession of bail, however, his case was distinguishable from that of the petitioner, inasmuch as, the only role attributed to him was that when the petitioner sexually assaulted the victim, he stood guard at the place of occurrence.

Learned State counsel has further submitted that 06 out of the 14 prosecution witnesses cited, stand examined, which include the victim, who has supported the case of the prosecution in its entirety. In addition to that, the Doctor has also deposed during trial that the possibility of a sexual assault on the victim cannot not be ruled out. Learned State counsel has, therefore, prayed that the instant petition be dismissed in the wake of serious and specific allegations levelled against the petitioner of having committed an offence attracting the mischief of Sections 354-B, 365, 506, 34 of IPC and Section 6 of the POCSO Act.

Heard.

Without commenting on the merits of the case and keeping in view the fact that there are *prima facie* serious allegations levelled against

the petitioner of sexually assaulting a minor, aged 14 years, this Court is not inclined to extend the concession of bail to the petitioner.

Petition stands dismissed accordingly.

(MANJARI NEHRU KAUL)
JUDGE

August 25, 2021

J.Ram

Whether speaking/reasoned: *Yes/No*

Whether Reportable: *Yes/No*