

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

107+203

**CRM-M No.38611 of 2020 (O & M)
Date of decision:15.02.2021**

Rahul @ Bhala

... Petitioner

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Rakesh Dhiman, Advocate for the petitioner.

Mr. Gurmeet Singh, AAG, Haryana.

SUVIR SEHGAL J. (ORAL)

The Court has been convened through video conferencing due to Covid-19 pandemic.

CRM-3968-2021

Prayer in the application is for placing on record the statement of the prosecutrix recorded under Section 164 Cr.P.C. and her Medico-Legal Report as Annexures P-3 and P-4, respectively.

For the reasons given in the application, same is allowed. Annexures P-3 and P-4 are taken on record.

Main Case

Petitioner has filed this petition under Section 439 of Cr.P.C. for grant of regular bail in case FIR No.161, dated 25.05.2020 registered under Sections 376, 506, 342, 34 IPC and Section 4 of the POCSO Act , 2012, at Police Station Murthal, District Sonipat.

FIR has been lodged on the complaint of the father of the prosecutrix, wherein he has alleged that his daughter, who is seventeen years and two months old, confided in him that on 08.03.2019, when she was coming back from school, a boy named Rahul @ Bhola (present petitioner) forcibly took her towards a vacant area adjoining the tubewell and raped her. He also threatened that he would kill her brother. On 24.05.2020, he again called her on her phone and asked her to come to the open fields or else she will face dire consequences. During investigation, the petitioner was arrested on 10.07.2020.

Counsel for the petitioner has argued that there is a delay of more than one year and two months in lodging the FIR. He urges that the prosecutrix did not know the accused-petitioner, who did not disclose his name before allegedly committing the crime, however, despite this the name of the petitioner figures in the FIR. It is his contention that there is no material with the prosecution to apprehend that the petitioner is likely to influence the witnesses.

Per contra, learned State counsel upon instructions from ASI Sandeep, has opposed the petition. He submits that there are serious allegations against the accused/petitioner, which are supported by the prosecutrix in her statement recorded under Section 164 Cr.P.C., Annexure P-3. He has made a reference to the MLR, Annexure P-4. He submits that during the course of investigation, it has been found that the prosecutrix were studying in a school, which is located in the village of the accused/petitioner. As per his instructions, challan has been presented on 21.10.2020 and the charges are yet to be framed.

I have considered the rival submissions of the parties.

There are categoric allegations against the petitioner, who has been named in the FIR. The statement recorded before the Magistrate by the prosecutrix, who was 16 years of age on the date of the alleged incident, is on the same lines as the FIR. The doctor in the MLR has opined that possibility of sexual assault cannot be ruled out. Keeping in view the fact that the prosecutrix is a minor and has been intimidated by the petitioner, the delay in the lodging of the complaint is immaterial. Whether the prosecutrix knew the petitioner beforehand is of no consequence in the face of the seriousness of the allegations.

The Hon'ble Supreme Court in State of Punjab versus Gurmeet Singh, (1996) 2 SCC 384 has held that the statement of a prosecutrix is placed on a much higher pedestal than that of an injured witness and it does not require any corroboration.

Considering the nature of allegations, gravity of offence and the fact that the prosecutrix is a minor, who is yet to step in the witness box, the concession of regular bail cannot be granted to the petitioner.

Petition is accordingly dismissed.

It is clarified that any observation made hereinabove shall not be construed to be an expression of opinion on the merits of the case.

15.02.2021
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(SUVIR SEHGAL)
JUDGE

Whether Speaking/Reasoned	:	Yes/No
Whether Reportable	:	Yes/No