

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

219

CRM-M-6570 of 2022
Date of decision:05.05.2022

Vicky alias Gugni

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Vishavdeep Singh Rana, Advocate
for the petitioner.

Mr. Prabhjot Singh Walia, AAG, Punjab.

SUVIR SEHGAL J.

Vide the instant petition filed under Section 439 of the Code of Criminal Procedure, 1973 (for short “the Code”), the petitioner has approached this Court seeking grant of post arrest bail in case FIR No.276 dated 25-11-2021 lodged for offences under Sections 376, 354-B, 450, 342, 323, 506 of Indian Penal Code, 1860 and Section 4 of Protection of Children from Sexual Offences Act, 2012 (hereinafter referred to as “the POCSO Act”) at Police Station, Sadar, District Patiala, Annexure P-1.

Version of the prosecution is that FIR, Annexure P-1, has been registered on the statement of a 16 year old school going girl (hereinafter mentioned as “minor victim”) on the allegation that on 24.11.2021, at about 8.00 p.m. when she was alone at home and preparing food in the kitchen, Vicky alias Gugni (present petitioner), entered the house, held her from

behind, pushed her onto a bed and raped her. After sexually assaulting her, he threatened her with dire consequences before leaving. She started crying and told her aunt, Rani about the incident later. Rani called up the brother of the minor victim on his mobile and took her to Rajindera Hospital, Patiala where she is undergoing treatment. Vicky alias Gugni came inside as the main gate of the house was not closed. It has been requested that action be taken against him.

Counsel for the petitioner has contended that the petitioner who is a young boy of 18 years of age, has been falsely framed and the prosecutrix as well as other material witnesses, have been examined and have not supported the case of the prosecution. He submits that the petitioner, who is in custody from 25.11.2021 deserves to be released on bail.

Per contra learned state counsel, upon instruction from ASI Pawan Kumar, has opposed the petition by referring to the allegations in FIR, Annexure P-1, as well as to the statement of the prosecutrix recorded under Section 164 of the Code. Reference has also been made by him upon the report of the doctor.

Heard counsel for the parties.

Petitioner is accused of a heinous offence and has been specifically named by the minor victim both in the FIR, Annexure P-1, as well as in her statement recorded before the Magistrate. In the narration of the incident given to the doctor, as is apparent from the perusal of the medical report, Annexure P-2, she has stated that she has been sexually

assaulted by her neighbour. An observation has been made by the doctor that when she was brought to the hospital, her clothes were torn. The aunt, minor victim and her brother have all been examined as prosecution witnesses, who have supported the incident. The mere fact that the said witnesses including the minor victim have not identified the petitioner, will not ensue to the benefit of the accused as the medical evidence is yet to be led. The victim has been medically examined and the samples have been sent to the laboratory, but the report is awaited.

Keeping in view the totality of the afore-noticed facts and circumstances, the nature of allegations against the petitioner, the gravity of offence allegedly committed by him of having sexually assaulted a minor girl on finding her alone at home, he is not entitled to the concession of grant of bail during the pendency of the trial.

There is no merit in the petition, which is hereby dismissed.

It is clarified that nothing said hereinabove shall be construed to be an expression of opinion on the merits of the case.

(SUVIR SEHGAL)
JUDGE

May 05, 2022
savita

Whether Speaking/Reasoned	Yes
Whether Reportable	Yes