

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

CRM-M-9476-2022

Date of Decision: 10.3.2022

Rahul

..... Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. R.S. Mamli, Advocate, for the petitioner.

Mr. Vishal Kashyap, Deputy Advocate General, Haryana.

Rajesh Bhardwaj, J. (ORAL)

Prayer in the present petition is for the grant of regular bail to the petitioner in a case FIR No.55 dated 22.6.2021, registered under Section 506 IPC and Section 6 of Protection of Children from Sexual Offences Act, 2012 (added subsequently), at Women Police Station, Manesar, District Gurugram.

As per factual matrix of the case, the FIR in question was lodged by the prosecutrix/victim herself (name concealed). The sum and substance of the allegations in the FIR is that the prosecutrix belongs to village Asudhan Matia, Police Station Jagdishpura, District Bhojpur (Bihar) and stays at Mohammadpur alongwith her parents on rent. She used to take coaching classes from Gyananda Coaching Centre. A young boy, namely, Rahul was also a student in the same coaching centre and both of them developed friendly relations. In the month of March, 2021, he gave telephonic call to her and on his saying she went to the place where he called her. After going there he committed wrong act with her and she was threatened to be killed in case she disclose anything to anyone. After some

time, she realised that she missed her periods and Rahul, i.e. the petitioner told her to stay calm and thereafter, he gave her medicine for the same. After taking the medicine, she became normal. It was requested to take legal action against the accused. After lodging the FIR, the Investigating Agency commenced the investigation and the petitioner was arrested on 7.7.2021. He approached the learned Additional Sessions Judge, Gurugram for grant of bail, who after hearing the parties, declined the same vide its order dated 21.2.2022. Aggrieved by the same, the petitioner approached this Court by way of filing the present petition for grant of regular bail.

Learned counsel for the petitioner has vehemently contended that the petitioner has been falsely implicated in the present case. He submits that *prima facie* reading of the allegations in the FIR would show that at most there was consensual relationship between the petitioner and the prosecutrix. He submits that the prosecutrix was marginally below the age of majority i.e. she was about 17½ years at the time of occurrence. He has submitted that the petitioner is equally young boy of 20 years, who was admittedly a student in the same coaching centre where the prosecutrix was studying. He submits that the petitioner has been implicated by the prosecutrix under the pressure of her family members and hence her being less than 18 years of age, the petitioner was maliciously booked for heinous offence. He submits that after investigation, the Investigating Agency filed the challan and the trial Court framed the charges and now the prosecution witnesses are being examined by the trial Court. He has drawn the attention of this Court to the examination of the prosecutrix and that of her father as PW-3 and PW-4, respectively. He submits that both these material witnesses have not supported the case of the prosecution and thus, have been declared

hostile. This fact proves the innocence of the petitioner. It is submitted that once the material witnesses themselves have not supported the case of the prosecution, further incarceration of the petitioner is totally unwarranted.

Learned State counsel has opposed the submissions made by learned counsel for the petitioner and on instructions from SI Roshan has submitted that the prosecutrix is less than 18 years of age and hence, even if there is any consent on the part of the prosecutrix, the same is meaningless in the eyes of law as the prosecutrix was minor. However, he candidly acknowledges that both the material witnesses have not supported the case of the prosecution. He submits that in all there are 19 prosecution witnesses, out of which 4 witnesses have been examined till date including the prosecutrix and her father.

Heard.

The petitioner is behind bars since 7.7.2021. The prosecutrix was 17½ of age, whereas, the petitioner was 20 years of age at the time of occurrence. A reading of the deposition of the father of the prosecutrix would show that she developed physical relations with some unknown person due to which she became pregnant. He further deposed that accused Rahul never committed any wrong act with the prosecutrix at any point of time. So far as deposition of the prosecutrix is concerned, she deposed that in February, 2021 she developed physical relations with some unknown person due to which she got pregnant and she disclosed about her pregnancy to her parents and the same was got terminated by doctor at GH Sector-10, Gurugram. It was deposed that Rahul was her batch mate and they were good friends and he never committed rape with her at any point of time. Out of total 19 prosecution witnesses, only 4 witnesses have been examined so

far. The veracity of the allegations would be evaluated by the trial Court on the basis of evidence to be led before it. However, at this point of time, this Court refrains itself from commenting on merits of the case. The trial of the case will take sufficiently long time and no useful purpose will be served by keeping the petitioner in custody for such a long time. In the overall facts and circumstances of the case, I am of the opinion that learned counsel for the petitioner has been able to make out a case for grant of regular bail to the petitioner. Accordingly, the present petition is allowed and the petitioner is ordered to be released on bail to the satisfaction of the concerned trial Court/Duty Magistrate. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

10.3.2022
sharmila

(RAJESH BHARDWAJ)
JUDGE

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