

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

**(124+219)**

**CRM-M-12647-2022 (O&M)  
DATE OF DECISION:- 24.05.2022**

**SHARVAN**

**...PETITIONER**

**VERSUS**

**STATE OF HARYANA AND ANOTHER**

**...RESPONDENTS**

**CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL**

Present: Mr. Vikram Bali, Advocate for the applicant-petitioner.

Ms. Deepshikha Chauhan, AAG, Haryana  
for the State-respondent No.1.

**SUVIR SEHGAL, J. (ORAL)**

**CRM-12999-2022**

Noticing the prayer made in the application, it is allowed.

Petitioner is permitted to place on record the correct copy of  
the FIR as Annexure A-1.

**Main case**

Instant petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 (for short “the Code”) seeking grant of regular bail in FIR No.24 dated 04.07.2019, registered for offences under Sections 506, 328, 376 (2) and 376 (3) of the Indian Penal Code, 1860, wherein, Section 6 of Protection of Children from Sexual Offences Act, 2012 (for short “the POCSO Act”) was added later on, at Police Station Sector 29, Industrial Area, District Panipat, Annexure A-1.

As per the version of the prosecution, FIR, Annexure A-1, has been registered on the statement of mother of a fourteen year old school going girl, hereinafter referred to as “the minor prosecutrix”, on

the allegation that her daughter is a student of 11<sup>th</sup> class, who complained of pain in her stomach. On enquiring, she told her that Sharvan (present petitioner), who is a resident of the same village, and is her school teacher, has raped her on 01.03.2019 and 03.03.2019 after the school was over and threatened that in case she discloses this incident to anyone, he will kill her brother.

Counsel for the petitioner has urged that petitioner has been falsely framed and the offence as alleged never took place as is apparent from the compromise dated 31.03.2021, Annexure P-2, entered between the petitioner and the complainant. He submits that petition seeking quashing of the FIR on the basis of compromise has been instituted and vide order dated 08.04.2021, Annexure P-3, passed in CRM-M-15716-2021, this Court directed the parties to get their statements recorded in support of the compromise, which has been done, and a report has been submitted to this Court. He submits that the said petition is coming up for hearing before this Court on 05.08.2022.

*Per contra*, learned State counsel has opposed the petition in view of the seriousness of the offence and has submitted that the petitioner, who is a tutor, is in a position to exert pressure on the minor prosecutrix as well as her family members. Reference has been made by her upon the statement of the minor prosecutrix recorded before the Judicial Magistrate as well as the FSL reports.

I have considered the submissions of counsel for the parties.

Besides the fact that FIR involving allegation of rape cannot be quashed on the basis of a compromise, as has been held by the Supreme Court in *The State of Madhya Pradesh Versus Laxmi Narayan and others (2019) 5 SCC 688*, the allegation against the petitioner are too

grave to be taken lightly. Petitioner is a teacher, who has sexually assaulted the minor prosecutrix of barely fourteen years of age, has impregnated her and she has delivered a child. The FSL report, referred to by the State counsel, shows that human semen has been detected on the undergarment of the accused. The conclusion of the DNA report is as under:-

*“The Autosomal STR analysis indicates that the DNA profile of accused (source of Item No.1) and DNA profile of victim (source of Item No.2) is biological father-mother of DNA profile of baby of victim (source of item No.3).”*

Instead of being a mentor and guide to a young girl of an impressionable age, the petitioner has spoiled her life. It will take her a long time to come out of the trauma of rape. Statement of the minor prosecutrix is yet to be recorded and she has not been examined by the Trial Court. Therefore, release of the petitioner is not warranted.

Keeping in view the totality of the facts and circumstances, nature of allegations, gravity of offence allegedly committed by the petitioner, age of the minor prosecutrix as well as the presumption under Section 29 of the POCSO Act, this Court is not inclined to release the petitioner on bail during the pendency of the trial.

Bail petition is accordingly declined.

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

(SUVIR SEHGAL)  
JUDGE

24.05.2022  
*Kamal*

|                            |         |
|----------------------------|---------|
| Whether speaking/ reasoned | Yes/ No |
| Whether Reportable         | Yes/ No |