

**224 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****CRM-M-17959-2021 (O&M)****Date of decision : 19.04.2022****Tinku****..... Petitioner****versus****State of Haryana and another****.....Respondents****CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ***********Present :-** Mr. Amandeep Singh, Advocate
for the petitioner.

Mr. Kirpal Singh Thakur, AAG, Haryana.

Mr. Sunil Kumar Goswami, Advocate
for respondent No.2.*********RAJESH BHARDWAJ, J.**

Petitioner has approached this Court praying for grant of regular bail in case FIR No.98 dated 16.10.2020, under Sections 6 of POCSO Act, 2012 and Sections 34, 341, 342, 363, 366-A, 376DA, 506 of Indian Penal Code, registered at Women Police Station, Jind.

As per the factual matrix of the case, the present FIR was lodged by mother of the victim. It was alleged that on 12.10.2020 at around 01:30 PM, when they were sitting at home, her daughter-victim (name concealed) came from outside crying. On their asking, the victim could not explain anything. They found blood on her clothes. On 16.10.2020, the victim told that Tinku son of Japan called her on pretext of taking up school work and he took her in a vacant plot where Sandeep son of Randhir was also present. Thereafter, Sandeep tied her arms and legs and sat outside. After that Tinku did wrong act with her and told her not to tell anyone. The FIR was lodged to take legal action against the culprits. On the commencement of the investigation, the petitioner was

arrested on 17.10.2020. He has approached the learned Additional Sessions Judge, Fast Track, Special Court, POCSO, Jind seeking bail under Section 439 Cr.P.C., however, after hearing counsel for the parties, learned Special Court declined the same vide order dated 01.02.2021. Aggrieved by the same, petitioner has approached this Court for grant of regular bail by way of the present petition.

Learned counsel for the petitioner has submitted that petitioner has been falsely implicated in this case. He submits that the ocular version has not been medically corroborated. He further submits that the co-accused Sandeep has already been released on bail. He has submitted that the petitioner is behind bars since 17.10.2020 and be enlarged on bail.

Learned State counsel has opposed the submissions made by counsel for the petitioner. He submits that the prosecutrix-victim is 13 years of age and there are specific allegations against the petitioner. He further submits that during her examination as per the FSL report, human semen was detected on Exhibit 3. He further submits that the prosecutrix has been examined by the trial Court wherein she has fully supported the case of the prosecution. He also submits that the co-accused Sandeep who has been granted bail was juvenile and hence, the petitioner cannot claim parity with the co-accused. He submits that no case for granting the bail is made out and the same may be dismissed.

I have heard learned counsel for the parties and perused the records.

The victim is 13 years of age. It has been specifically alleged by the victim that the petitioner raped her after taking her in an abundant

place. As per the statutory provisions of Sections 29 and 30 of the POCSO Act, there lies a presumption against the accused. The co-accused who was granted bail was juvenile and thus, the petitioner is not entitled to claim parity with the co-accused.

In the overall facts and circumstances, this Court finds no ground for granting bail to the petitioner. Petition being devoid of any merits, is hereby dismissed.

(RAJESH BHARDWAJ)
JUDGE

19.04.2022
m.sharma

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No