

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

217

**CRM-M-21999 of 2022
Date of decision : 08.08.2022**

Sachin

.....Petitioner

VERSUS

State of Haryana

.....Respondent

CORAM : HON'BLE MR. JUSTICE VIVEK PURI

Present:- Mr. Parveen Kumar, Advocate, for the petitioner.

Mr. J. S. Chauhan, DAG, Haryana.

VIVEK PURI, J. (Oral)

Custody Certificate of the petitioner has been circulated today and the same is taken on record.

Petitioner is seeking regular bail in the case bearing FIR No.363 dated 23.06.2021 registered under Section 328, 376 (2) (n), 506 IPC & 6 of POCSO Act at P.S. Gharaunda, District Karnal.

Briefly, the FIR has been registered on the basis of statement of mother of the victim who is stated to be 16 ½ years old alleging that on 22.06.2021, victim went missing from the house. She returned on the following day and informed that the petitioner and another boy kidnapped her on a motorcycle. They administered her some intoxicants, she became unconscious and wrong thing was done when she was unconscious.

Learned counsel for the petitioner contends that in her statement under Section 164 Cr.P.C., the victim has not attributed any allegation of commission of sexual intercourse and even at the time of medical examination, the victim was unable to recall anything with regard

to sexual assault when she was unconscious. It was further stated that statements of the victim and her mother have been recorded during the course of trial. Furthermore, no spermatozoa has been detected as per report of the chemical examiner.

Learned State counsel has opposed the bail on the score that there is categoric version of the victim in her statement under Section 161 Cr.P.C., to the effect that petitioner had made relations with her twice and to the same effect is her deposition in the trial Court. Furthermore, during the course of her cross-examination, the victim has not been confronted with her statement under Section 164 Cr.P.C. Out of 11, 6 witnesses have been examined and there were bruises on the shoulder of the victim.

It is significant to note that as per report of chemical examiner, no spermatozoa has been detected. It has not been disputed that duration of injury on the shoulder has not been specified in the MLR. Although, the prosecutrix has not levelled any allegation with regard to sexual intercourse in her statement under Section 164 Cr.P.C., and has not been cross-examined by the petitioners on this aspect during the course of trial but the effect thereof if any, will be seen by the trial Court at the appropriate stage.

Petitioner is in custody for a period of 1 year, 1 month and 11 days. The victim and her mother have been examined during the course of trial and as such it cannot be said that petitioner could influence or win over the victim and her mother. 5 witnesses remain to be examined. The conclusion of the trial is likely to take some time. No fruitful purpose will be served by detaining the petitioner in further custody. As such, sufficient mitigating circumstances are made out to extend the

concession of bail to the petitioner.

Without expressing any opinion on the merits of the case, the instant petition is allowed. The petitioner is ordered to be released on his furnishing requisite bail bonds to the satisfaction of the learned trial Court/Duty Magistrate concerned.

The petition is allowed accordingly.

08.08.2022
anil

(VIVEK PURI)
JUDGE

<i>Whether speaking/reasoned :</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>