

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

**CRM-M-22050-2022**

**Date of decision : 29.11.2022**

**Amit**

**.....Petitioner**

**versus**

**State of Haryana**

**..... Respondent**

**CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ**

**\*\*\***

Present :- Mr. Mayank Gupta, Advocate  
for the petitioner.

Mr. Kirpal Singh Thakur, AAG, Haryana.

**\*\*\***

**RAJESH BHARDWAJ, J. (Oral)**

Petitioner has approached this Court praying for grant of regular bail in case FIR No.144 dated 27.09.2021, under Sections 376(3), 328, 450, 506 of IPC and 4 of POCSO Act, registered at Police Station Women Jind.

In nutshell, the facts of the case are that the present FIR was lodged by father of the victim wherein he alleged that on 25.09.2021, he had gone for some work to Tusam. On 26.09.2021, he got a call from his father that whole of the family is unwell and have become unconscious. He returned back and found all members of his family lying unconscious. He called the doctor and got them treated. On regaining the consciousness, his daughter i.e. the victim who is about 16 years of age told that she was raped by the person who came to their house. She was afraid and told that she recognized the person whose name is Amit. It was told that he forcibly raped her and threatened to kill her. The request was made to take legal action against the culprits. On registration of the FIR,

investigation commenced. The victim was medically examined and produced before the learned Magistrate for recording her statement under Section 164 Cr.P.C. The petitioner was arrested on 28.09.2021. He approached the Court of learned Additional Sessions Judge, Fast Track Special Court, POCSO, Jind praying for grant of bail. However, after hearing counsel for both the sides, learned Additional Sessions Judge declined the same vide order dated 06.05.2022. Aggrieved by the same, petitioner is before this Court praying for grant of regular bail.

It has been contended by counsel for the petitioner that the petitioner has been falsely implicated in this case. He submits that the victim in the case is 16 years of age and she has deposed that she was unconscious. He submits that when the prosecutrix was herself unconscious, it was not possible for her to recognize the petitioner. He submits that thereafter, statement of the prosecutrix was recorded under Section 164 Cr.P.C. on 27.09.2021 wherein she stated that she was semi-conscious and Amit entered their house and gave her something to eat. He submits that after the conclusion of the investigation, the police has filed the challan and charges are framed. He submits that the prosecutrix, her parents and grand-parents have been examined by the trial Court and all these five witnesses have not supported the case of the prosecution. He submits that once the material witnesses produced by the prosecution have not supported the case of the prosecution, false implication of the petitioner is writ large. He also submits that the petitioner has no criminal antecedents as he was not involved in any other case. He submits that as the material witnesses already stand examined, the petitioner is not in a position to influence the prosecution witnesses and thus, he deserves to

be granted regular bail.

Learned State counsel has opposed the submissions made by counsel for the petitioner. He has submitted that the prosecutrix in the case is 16 years of age and thus, being minor, her statement cannot be ignored. He submits that the prosecutrix has made specific allegations against the petitioner in a statement under Section 164 Cr.P.C. and the FIR was also recorded by her father on the basis of her disclosure statement. He submits that the FSL report has confirmed that human semen was detected on the clothes of the prosecutrix. However, DNA report is not received. He has further affirmed the fact that the prosecutrix, her parents and grand-parents have not supported the case of the prosecution. He submits that out of 18 prosecution witnesses, 13 witnesses already stand examined and only 05 witnesses remain to be examined. He submits that as per the information, petitioner is not involved in any other case.

I have heard counsel for the parties and perused the record. Petitioner is behind bars since 28.09.2021. Out of 18 prosecution witnesses, 13 witnesses already stand examined including the five material witnesses i.e. prosecutrix, her parents and her grand-parents. As submitted before this Court, that all the five material witnesses did not support the case of the prosecution. The majority of the witnesses already stands examined by the prosecution. There is nothing on record to show that the petitioner has any criminal antecedents.

The veracity of the allegations would be assessed only after the conclusion of the trial and on the appreciation of evidence led by both the parties before the trial Court. The trial of the case will take sufficiently long time. This Court would refrain itself from commenting

anything on the merits of the case. However, confining itself to the prayer made for bail, this Court finds that counsel for the petitioner succeeds in making out a case for grant of regular bail. Accordingly, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail/surety bonds 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.

29.11.2022  
*m. sharma*

( RAJESH BHARDWAJ )  
JUDGE

|                           |   |        |
|---------------------------|---|--------|
| Whether speaking/reasoned | : | Yes/No |
| Whether reportable        | : | Yes/No |