

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-36410-2021
Reserved on: 29.03.2022
Pronounced on: April 21st 2022

Ankur ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Sansar Kundu, Advocate for the petitioner

Mr. Rajat Gautam, DAG, Haryana

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
243	28.10.2020	Pillukhara, Tehsil Safidon, District Jind	377 IPC, 1860, Section 4 deleted later on and Section 6 added later on of Protection of Children from Sexual Offence Act, 2012

1. The petitioner, aged 21 years, incarcerated since 25-11-2020, upon his arrest in the FIR captioned above, came up before this Court under Section 439 of Code of Criminal Procedure, 1973 (CrPC) seeking bail.
2. In paragraph 13 of the bail application, the accused declares no criminal antecedents.
3. Ld. Counsel for the petitioner contends that the pre-trial incarceration would cause an irreversible injustice to the petitioner and family.
4. Ld. counsel representing the State strenuously opposed the bail.

REASONING:

5. On Oct 28, 2020, the father of the victim, a boy aged 10 years, informed the police that his son has been sexually assaulted by the petitioner by enticing him to the plantation of popular trees. The child made a similar statement under section 164 CrPC. On 28-10-2020, the police produced the child before the doctor for his medical examination, which was done, and MLR was handed over. As per the report of the doctor, no external injuries were seen on the anus or other parts of the child's body.

Apart from that the trouser of the child was also preserved. After the arrest of the accused, medical examination of accused was also conducted and apart from biological evidence, his clothes were also preserved. The exhibits were sent for testing in FSL, which as per its report dated 30-12-2020, detected human semen on trouser (of child), and underwear (of accused); however, did not find semen in any other exhibit. The status report does not mention a word about DNA testing of the semen; however it states that six prosecution witnesses stand examined, including the complainant and the victim.

6. The petitioner has annexed the statements of the victim PW-1 and his mother PW-2. Ld. Counsel has referred to the statements and contradictions, and seeks bail on the ground of admitted enmity by PW-1. Be that as it may, the trial is at an advanced stage, and any observations by this court at this stage, might prejudice either of the parties. Consequently, this court refrains from considering bail after analysing the evidence.

7. Considering the period of pre-trial incarceration and the fact that main witnesses stand examined, this court requests the Ld. Trial court to expedite the trial and complete it on priority. Registry to communicate through any of the electronic mediums.

8. Any observation made hereinabove is neither an expression of opinion on the merits of the case nor shall the trial Court advert to these comments.

Petition disposed of in aforesaid terms. All pending applications, if any, stand disposed.

(ANOOP CHITKARA)
JUDGE

April 21st 2022
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Whether speaking/reasoned:	Yes
Whether reportable:	No.