

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

CRM-M-39087-2020

Date of Decision: 08.09.2022

Ajay

..... Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Gaurav Grover, Advocate, for the petitioner.

Mr. B.S. Virk, Deputy Advocate General, Haryana.

Rajesh Bhardwaj, J. (ORAL)

Prayer in the present petition is for the grant of regular bail to the petitioner in a case FIR No.383 dated 5.5.2019, registered under Sections 370-A, 376, 506, 120-B IPC, Section 6 of POCSO Act, 2012 and Section 6 of Immoral Traffic Act, at Police Station City Panipat, District Panipat.

As per factual matrix of the case, the present complaint was made by the prosecutrix (name concealed). It was alleged that she is 17 years of age and she has studied till 9th class. She started working in Dhaka, Bangladesh. She developed friendship with a boy and came to Delhi alongwith him. He promised her to marry and get her a job in the beauty parlor. From Delhi she was taken to the house of one Rahul dada and his wife Khushi. After remaining there till 4.5.2019, Rahul brought her from Delhi to Panipat, where he asked her to go with his friend Ajay (the petitioner) and Manu Sharma. After reaching Panipat, Manu Sharma took her from Bus Stand Panipat to his home on bike and she was sent with another boy namely Ajay. Thereafter, Ajay forcibly committed bad act with

her. Complaint was made to register the FIR. On registration of the FIR, the investigation commenced. The statement of the prosecutrix was recorded under Section 164 Cr.P.C. and she was medico legally examined. In all four accused were named in the FIR and the petitioner was arrested on 5.5.2019. He approached the Court of learned Addl. Sessions Judge/Fast Track Court (POCSO), Panipat for grant of bail, who, after hearing the parties, declined the same vide order dated 19.10.2020. Aggrieved by the same, the petitioner has approached this Court by way of filing the present petition for grant of bail.

Learned counsel for the petitioner has vehemently contended that the petitioner has been falsely implicated in this case. He submits that the allegations are false and frivolous on the face of it. He submits that as per FIR, there is a fabricated allegation that the petitioner committed bad act with the prosecutrix. The prosecutrix was medico legally examined and as per FSL report received, the same was negative. He also submits that the DNA report received was also found to be negative. He submits that once the ocular version of the prosecutrix was not medically corroborated, the case of the prosecution is simply left with the oral allegations of the prosecutrix, which is not sufficient to hold the petitioner guilty. He has submitted that the petitioner has no criminal antecedents. He further submits that in all there are four accused, however, rest of the three accused are already on bail. He has submitted that the petitioner is languishing in jail from the last more than three years and as on date the majority of the witnesses including the prosecutrix, already stand examined and thus, there is no possibility on the part of the petitioner to influence any prosecution

witness. He has submitted that the speedy trial is the right of the accused, however, from the last more than three years, the petitioner is facing the trial, however, the same is not concluded till date, thus, the petitioner deserves to be granted bail.

Learned State counsel has opposed the submissions made by learned counsel for the petitioner. He submits that the prosecutrix was minor and there are specific allegations of rape against the petitioner. He has submitted that the statement of the prosecutrix was recorded under Section 164 Cr.P.C. and she was examined by the learned trial Court as prosecution witness as well and on every stage, she has duly supported the case of the prosecution. However, he candidly acknowledges that out of 18 prosecution witnesses, 11 witnesses already stand examined including the prosecutrix. He also submits that as per the instructions received, the petitioner has no criminal antecedents.

Heard.

Admittedly, the petitioner is behind bars since 5.5.2019. In all there are four accused in this case and out of which rest of three accused are already on bail. The prosecutrix though minor as per the prosecution case, but already stands examined. There is nothing on record showing that the petitioner has any criminal record. It has been submitted that the prosecutrix was medico legally examined and FSL as well as DNA reports were found to be negative. Though the veracity of the allegations would be evaluated only after conclusion of the trial, however, this Court would refrain itself from commenting anything on the merits of the case. The Court cannot be oblivious of the fact that out of four accused, the petitioner is the only one

lodged in jail from the last more than three years and the trial is not yet concluded. Out of total 18 prosecution witnesses, 11 witnesses already stand examined including the prosecutrix. There is no possibility of the petitioner influencing the prosecution evidence. Keeping in view the overall facts and circumstances of the case, I am of the view that learned counsel for the petitioner has been able to make out a case for grant of regular bail to the petitioner. The trial would take sufficient long time for its conclusion.

Accordingly, the present petition is allowed and the petitioner is ordered to be released on bail 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.

08.09.2022		(RAJESH BHARDWAJ)
sharmila		JUDGE
	Whether Speaking/Reasoned :	Yes/No
	Whether Reportable :	Yes/No