

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

223+109

CRM-M-48840 of 2021
Date of decision:04.04.2022

Shankar

... Petitioner

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr.Ashish Grewal, Advocate
for the petitioner.

Ms. Deepshikha Chauhan, AAG, Haryana.

Mr. Namit Khurana, Advocate
for the complainant.

SUVIR SEHGAL J.(Oral)

CRM No.4215 of 2022

Application is allowed as prayed for.

Testimony of the prosecutrix, who has been examined as PW2,
is taken on record as Annexure P-5.

CRM-M-48840 of 2021

Instant petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 (for short “the Code”) seeking grant of regular bail to the petitioner in case FIR No.78 dated 07.05.2021 registered for offences under Section 328, 323, 506 of Indian Penal Code, 1860 and Section 6 of the Protection of Children from Sexual Offences Act, 2012 (hereinafter referred to as “the POSCO Act”) at Police Station Women, District Yamuna Nagar (Annexure P-1).

Version of the prosecution is that a complaint has been given by

the father of a 17 years old school going girl (hereinafter referred to as “the prosecutrix”) on the allegation that on 04.05.2021, on enquiry from his daughter, who was scared and crying, the first informant and his wife were told that Shankar (present petitioner), has been harassing her when she goes to school and has also molested her. He has been pressurizing her to be friends with him. In February, 2021, Shankar forced her to consume sweets by telling her that it was his birthday. On consuming the sweets, she fainted and Shankar took her to his house where he sexually assaulted her. On regaining consciousness when the prosecutrix raised hue and cry, Shankar told her that he had made a video recording of the incident and in case she revealed the incident to anyone, he would make the recording viral. Shankar has sexually assaulted her seven times and on 04.05.2021, when she resisted his attempts, he physically assaulted her and she suffered an eye injury.

Besides urging that the petitioner is innocent, counsel for the petitioner has contended that the FIR (Annexure P-1) is a counter blast to an application (Annexure P-2) submitted to the police by the petitioner's sister against the complainant and his family. He argues that there is an unexplained delay in lodging of the FIR and the petitioner, who is in custody since 07.05.2021, deserves to be enlarged on bail.

On the other hand, State counsel upon instructions from ASI Amardeep, has opposed the petition by referring to the medical record as well as the statements of the prosecutrix.

Having considered the submissions made by counsel for the parties, this Court is of the view that there is no merit in the present petition.

Not only, the prosecutrix has levelled specific allegation against the

petitioner, but she has also supported them in her statement recorded under Section 164 of the Code as well as in her testimony (Annexure P-5). An examination of the Medico Legal Report (Annexure P-3) shows that she has suffered injuries near her eye, though the name of the petitioner has been wrongly mentioned in the brief description of the incident recorded by the examining doctor in the MLR. The settled legal position is that the testimony of a prosecutrix which is of sterling quality and inspires confidence can form the basis for the conviction of the accused without any corroboration. Reliance in this regard is placed upon the judgment of the Hon'ble Supreme Court in **Sham Singh Vs. The State of Haryana (2018) 18 SCC 34.**

Still further, it deserves to be noticed that the trial is at an advanced stage. All the prosecution witnesses have been examined, statement of the accused has been recorded under Section 313 of the Code and the proceedings are pending for defence evidence. Even the stage of the trial does not warrant grant of bail to the petitioner.

Petition being bereft of merit, is hereby dismissed.

It is clarified that nothing said hereinabove shall be construed to be an expression of opinion on the merits of the case.

(SUVIR SEHGAL)
JUDGE

April 04, 2022
savita

Whether Speaking/Reasoned	Yes
Whether Reportable	Yes