

220

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-50058-2021

Date of Decision: July 18, 2022

Dinesh

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR.JUSTICE RAJESH BHARDWAJ

Present: Mr.Sanjeev Majra, Advocate
for the petitioner.

Mr.Neeraj Poswal, AAG, Haryana.

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RAJESH BHARDWAJ, J.(ORAL)

Instant petition has been filed under Section 439 Cr.P.C. praying for grant of regular bail to the petitioner in case FIR No.30, dated 15.03.2019, under Section 4 of POCSO Act, registered at Police Station Women Manesar, District Gurugram.

As per the factual matrix of the case, the complaint was lodged to the police by the father of the victim (name concealed) wherein it was alleged that his minor daughter, 14 years of age, was sexually assaulted by the accused, namely, Dinesh. On the basis of the complaint, FIR was lodged and investigation commenced. Accused was arrested on 16.03.2019. The victim was medico legally examined and her statement under Section 164 Cr.P.C. was recorded. The petitioner-accused approached the Court of learned Additional Sessions Judge (Fast Track Court), Gurugram, praying for grant of bail. After hearing both the sides, learned Court below rejected the same vide its order dated 27.05.2019. Aggrieved by the same, the

petitioner is before this Court praying for grant of bail.

It has been contended by learned counsel for the petitioner that petitioner is 19 years of age and as per the prosecution case, the victim is 16 years old. He submits that petitioner is behind bars since 16.03.2019. He further submits that petitioner has been falsely implicated in this case and he is behind bars only for the reason that the victim in this case is less than 18 years of age. He submits that both the petitioner and the victim are teenagers and at the most the relationship between them could be consensual. He submits that even otherwise majority of the witnesses have been examined by the prosecution and the petitioner has completed incarceration of more than three years. He also submits that the petitioner has no criminal antecedents as he has never been involved in any criminal case besides the present case. He submits that keeping in view the facts and circumstances of the case, the petitioner be released on bail.

Learned State counsel however opposes the submissions made by learned counsel for the petitioner. He submits that the victim is minor and she has duly supported the case of the prosecution while deposing her statement under Section 164 Cr.P.C. and thereafter when she appeared as prosecution witness. He submits that the DNA report is also received and the ocular version of the prosecution is also medically corroborated, however, he affirms the fact that petitioner is behind bars from the last more than three years and out of 26 prosecution witnesses so far the prosecution could examine only 14 witnesses. He also submits that there is no other case against the petitioner besides the present case as per the information provided to him.

record.

Admittedly, petitioner is behind bars for more than three years. The petitioner is 19 years of age and there is nothing on record to show that he has any criminal antecedents. The Court cannot be oblivious of the fact regarding long incarceration of the petitioner and in this period so far the prosecution could reach only half way mark by examining half of the witnesses. The prosecutrix and the complainant already stand examined. Looking from that angle also, there cannot be any apprehension asserted by the prosecution that granting bail to the petitioner would result in hampering the ongoing trial. The veracity of the allegations would be dealt with only after appreciation of the all the evidences by the trial Court.

Keeping in view the overall facts and circumstances and the custody period of the petitioner, this Court finds that counsel for the petitioner has made out a case for grant of bail to the petitioner. The trial would take some time for its conclusion and no purpose would be served by keeping the petitioner behind the bars for further period.

Petition is allowed.

Bail to the satisfaction of trial Court/Duty Magistrate concerned.

Nothing said hereinabove shall be construed to be an expression on the merits of the case.

July 18, 2022
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(RAJESH BHARDWAJ)
JUDGE

1. Whether speaking/reasoned ?
2. Whether reportable ?

Yes/No
Yes/No