

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

220

CRM-M No.50556 of 2021  
Date of Decision: 16.08.2022

Manoj @ Jony

... Petitioner

Versus

State of Haryana

... Respondent

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

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

Mr. Neeraj Poswal, AAG, Haryana.

Mr. Bisham Kumar Majoka, Advocate,  
for the complainant.

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

The present petition has been filed under Section 439 Cr.P.C seeking the benefit of regular bail to the petitioner in case FIR No.153 dated 23.05.2021 under sections 363A, 450, 506 and 376 of IPC and Section 4 of POCSO Act, 2012, registered at Police Station, Chandhut, Palwal, District Palwal.

As per facts of the case, a complaint was made to the police by the father of the victim wherein it was alleged that on 22.05.2021 in the night at about 11.30 PM his neighbours Jony @ Manoj had taken away his daughter who was about 13 years of age, from their home after giving her threat of killing. A request was made to register the FIR and to take legal action against the culprits.

On the basis of the complaint, the present FIR was lodged and investigation commenced.

The daughter of the complainant i.e. the victim returned back on

23.05.2021 in the morning. Her statement under Section 164 Cr.P.C. was recorded. Medical of the prosecutrix was also conducted. The accused-petitioner was arrested on 26.05.2021. He approached the Special Court, Palwal for grant of bail, however, after hearing the parties, the same was declined vide order dated 28.10.2021. Aggrieved by the same, the petitioner has approached this Court for grant of regular bail.

Learned counsel for the petitioner has vehemently contended that the petitioner has been falsely implicated in this case. The petitioner is a young boy of about 19 years of age. He has submitted that the petitioner is behind bars since 26.05.2021. He submits that as per the case of the prosecution, the victim went missing from her home on 22.05.2021 at about 11.30 PM in the night and thereafter she was found in the house of her aunt in the morning on 23.05.2021. He submits that after the recovery of the victim though she levelled allegations against the petitioner in her statement recorded under Section 164 Cr.P.C., however on conducting the medical examination, the same were not substantiated as per the report of the FSL. He submits that as per the FSL report, the human semen could not be detected on the exhibits belonging to the victim. He has submitted that the allegations made by the victim and complainant were totally false and fabricated. He further submits that the petitioner has no criminal antecedents and even otherwise the material witnesses i.e. the victim, complainant and her aunt have already been examined by the trial Court. He submits that as the material witnesses already stand examined, the apprehension of influencing the witnesses by the petitioner no more survives. He submits that the petitioner in these facts and circumstances deserves to be enlarged on bail.

Learned counsel for the complainant has opposed the submissions made by counsel for the petitioner. He submits that there are specific allegations against the petitioner.

On the other hand, learned State counsel has submitted that there are specific allegations against the petitioner. He submits that the victim being 13 years of age is minor and she has duly supported the case of the prosecution. Even in her statement recorded under Section 164 Cr.P.C., she has supported the allegations levelled against the petitioner. He submits that in the facts and circumstances of the case, the petitioner does not deserve any concession of bail. However, he candidly acknowledges that as per FSL report, no semen was detected. He further submits that the material witnesses including the victim already stands examined and they have supported the case of the prosecution. However, he submits that as per the instructions, the petitioner has no criminal antecedents.

I have heard learned counsel for the parties at length and have gone through the records carefully.

Admittedly, petitioner is behind bars since 26.05.2021. The trial would take sufficiently long time in its conclusion. The prosecutrix and the other material witnesses already stands examined. The petitioner is 19 years of age and as per the statements made by the learned State counsel, there is nothing on record to show that he is involved in any other criminal case. The FSL report reveals that no semen was detected. The veracity of the allegations would be assessed only after the conclusion of the trial by the trial Court. However, as the material witnesses already stand examined, the possibility of the petitioner of tampering with the prosecution witnesses no more survives. Confining itself to the prayer made for grant of bail, this

Court finds that the learned counsel for petitioner has been able to make out a case for the grant of bail to the petitioner

In the totality of facts and circumstances and without making any observation on merits, present petition is allowed. Petitioner be enlarged on bail on his furnishing bail/surety bonds subject to satisfaction of Trial Court/Duty Magistrate, concerned. Nothing stated herein shall be treated as an expression on the merits of the case.

16.08.2022  
manju

(RAJESH BHARDWAJ)  
JUDGE

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