

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

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CRM-M-9368-2023

Date of Decision: 13.04.2023

**Vikram Alias Khatri****...Petitioner****Versus****State of Haryana****...Respondent****CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL**

Present:- Mr. V.P. Sangwan, Advocate for the petitioner

Ms. Priyanka Sadar, AAG, Haryana

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**JAGMOHAN BANSAL, J. (ORAL)**

1. The petitioner, through instant petition under Section 439 of Code of Criminal Procedure, 1973 (for short 'Cr.P.C.') is seeking grant of regular bail in FIR No.0121 dated 05.07.2021 under Sections 34, 376(2)(n), 376(3), 450 & 506 of Indian Penal Code, 1860 (for short 'IPC') and Sections 4, 6 & 12 of Protection of Children from Sexual Offences Act, 2012 (for short 'POCSO Act') registered at Police Station Jhojhu Kalan, District Charkhi Dadri.

2. The case of the prosecution is that complainant lodged a complaint that she has two children i.e. one son and one daughter. Her daughter is 14 years old who felt dizziness at home and told her that Shiv Kumar son of Prahlad used to come to their house and commit rape upon her. 2-3 months back, Vikram Khatri came to her house and committed wrong act while she was alone. Shiv Kumar has intimidated her to kill her family. Dinesh son of Ram Parsad and Rakesh son of Bishembar used to harass her.

3. Learned counsel for the petitioner, *inter alia* contends that as per medical record, it is Shiv Kumar who had committed rape upon prosecutrix. The petitioner has no concern with the alleged offence committed by Shiv Kumar. Co-accused Dinesh and Rakesh have been granted regular bail by the Trial Court. The petitioner is in custody since 06.07.2021. The petitioner is not involved in any other offence. The petitioner has been wrongly implicated in the commission of alleged offence. The petitioner is permanent resident of District Jhajjar. The petitioner has deep roots in the society. There is no possibility of flee from justice.

4. Learned State Counsel submits that police report has already been filed and charges stand framed. She further submits that out of 22 witnesses, 3 have already been examined which includes prosecutrix and her mother. The petitioner is involved in the commission of grave offence, thus, no leniency is warranted and release of petitioner would hamper the trial.

5. In the case in hand, the petitioner is in custody since 06.07.2021 and he is not involved in any other case, as confirmed by learned State counsel. As per medical record, it is Shiv Kumar, co-accused who has committed alleged offence of rape. The prosecutrix and her mother stand examined so there seems no possibility of influencing the witnesses or tampering the evidence. The Trial Court yet has to return definite findings on the disputed issues. There are 22 prosecution witnesses and till date only 3 have been examined, thus, there is abysmally low possibility of

conclusion of trial in near future. The material witness i.e. prosecutrix and her mother stand examined. As prosecution has right to arrest, investigate the matter and restrain an accused from manipulating or winning over witnesses, similarly accused in view of Article 21 of the Constitution of India has right to defend himself and put forth his stand which cannot be possible while in custody. The prosecution has not led any convincing/plausible documentary or oral evidence indicating possibility of petitioner being flee from justice or tampering the evidences or winning over/threatening the witnesses.

6. In view of afore-stated facts and circumstances, this Court is of the considered opinion that present petition deserves to be allowed and accordingly allowed. The petitioner is ordered to be released on bail subject to conditions as may be imposed by Trial Court/Illaqa/Duty Magistrate concerned.

7. Nothing observed hereinabove shall be construed as expression of opinion of this Court on merits of the case and Trial Court shall proceed without being prejudiced by observations of this Court.

(JAGMOHAN BANSAL)  
JUDGE

13.04.2023  
Mohit Kumar

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| <i>Whether speaking/reasoned</i> | <i>Yes/No</i> |
| <i>Whether reportable</i>        | <i>Yes/No</i> |