

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH****CRM-M 19081 OF 2023****Date of decision: 14.07.2023.****Sandeep****.....Petitioner****Vs.****State of Haryana****.....Respondents****CORAM HON'BLE MS. JUSTICE NIDHI GUPTA****Present:- Mr. Gaurav Grover, Advocate with
 Ms. Charu Sharma, Advocate for the petitioner.****Mr. Brijesh Sharma, AAG Haryana.****Nidhi Gupta, J.**

Prayer in this first petition under Section 439 of Code of Criminal Procedure, 1973 is for grant of regular bail in case FIR No.108 dated 13.5.2022 registered at PS Sanoli, Panipat, District Panipat (Annexure P-1) for the offences under Sections 363, 366, 376 IPC and under Section 6 of POCSO Act.

2. It is inter alia submitted by the ld. counsel for the petitioner that as per FIR dated 13.5.2022 the complainant/ father of the prosecutrix has stated victim to be 17-18 years of age on the date of occurrence i.e. 12.5.2022. It is submitted that in actual fact the prosecutrix is major and is 20 years old as is evident from Annexure P-2 which is deposition sheet of the prosecutrix. It is further submitted that FIR has been registered on the basis of complaint of father of the prosecutrix, however, both the prosecutrix and

her complainant father have turned hostile. Ld. Counsel further submits that in the reply filed by the State it has been admitted that even in her statement under Section 164 Cr.PC prosecutrix has stated that “*she herself gone with her brother-in-law/Jija Sandeep at Gurgaon. We resided there by taking room on rent. We made physical relation and same done with her consent. Now she wants to go her house*”. It is submitted that even as per FSL Report Annexure P-3, placed on record by the State counsel it has been found that:-

“CONCLUSION

DNA profiling (STR analysis) performed on the exhibits '1a' (microslides of victim), '1b' (cotton wool swab of victim), '2' (lower of victim) & '4' (blood sample of accused) are sufficient to conclude that:-

1. Male DNA profile generated from the source of exhibit '2' (lower of victim) is similar to the male DNA profile generated from the source of the exhibit '4' (blood sample of accused).
2. Female DNA profile generated from the source of exhibits '1a' (microslides of victim) & '1b' (cotton wool swab of victim) **are not similar** to the male DNA profile generated from the source of the exhibit '4' (blood sample of accused).
3. In response, ld. State counsel opposes the prayer, however, on instructions admits that prosecutrix and her complainant father have turned hostile during trial. It is further submitted that the prosecutrix was recovered from the petitioner's rented room at Begampur Khatola, Gurugram.
4. After hearing ld. counsel for the parties, keeping in view the totality of facts and circumstances and without commenting on the merits of the case, present petition is allowed and petitioner Sandeep

son of Dheer is ordered to be released on bail on his furnishing bail bonds/surety bonds to the satisfaction of CJM/Duty Magistrate concerned.

5. However, it is made clear that nothing stated above shall be taken as an expression of opinion on the merits of the case.

14.07.2023.
Joshi

(Nidhi Gupta)
Judge

Whether speaking/reasoned
Whether reportable

Yes
Yes/No