

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**111+211****CRM-M No.31799 of 2023 (O&M)****Date of Decision : 05.09.2023**

Abhishek

....Petitioner

VERSUS

State of Punjab

....Respondent

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. S.S. Rana, Advocate for the petitioner.

Mr. M.S. Tiwana, AAG Punjab.

ALKA SARIN, J. (Oral)**CRM-36789-2023**

1. This is an application under Section 482 CrPC for placing on record the statement and MLR of the victim as Annexures P-3 and P-4.

2. For the reasons stated in the application, the same is allowed. The copies of the statement and MLR are taken on record as Annexures P-3 and P-4. CRM stands disposed off.

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3. The present petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the petitioner in FIR No.26 dated 12.04.2023 under Sections 363 and 366-A of the Indian Penal Code, 1860 registered at Police Station Daba, Ludhiana, District Ludhiana.

4. Learned counsel for the petitioner would contend that the petitioner has falsely been implicated in the case and that the victim had

voluntarily gone with the petitioner as stated by her in her statement recorded under Section 164 CrPC. Learned counsel for the petitioner would further contend that there are no allegations of any sexual assault or the petitioner having made any sexual relations with the victim. Infact the medical examination as well as FSL Report also support the petitioner as the FSL Report has been found negative *qua* the presence of any semen.

5. Learned State counsel has filed the custody certificate as per which the petitioner has been in custody for a period of 04 months and 17 days. Learned State counsel on instructions from ASI Gurbaj Singh states that there would be no requirement of filing of the status report as the Investigating Officer is present in Court to instruct him. Learned State counsel on instructions states that the victim in the present case has stated that she had gone voluntarily with the petitioner and further that she was never tortured. Learned State counsel is also not in a position to deny the fact that the FSL Report is negative *qua* the presence of any semen.

6. I have heard learned counsel for the parties.

7. In the present case the petitioner is a young boy of 19 years of age and the victim is aged 17½ years. The victim in her statement recorded under Section 164 CrPC has categorically stated that she had voluntarily gone with the petitioner. There is no allegation of the petitioner having developed any physical relations with the victim. Even the FSL Report is also negative *qua* the presence of semen.

8. In view of the above and without commenting upon the merits of the case, I deem it to be a fit case to grant the concession of regular bail to the petitioner. The petitioner is directed to be released on bail subject to his

furnishing bail bonds/surety bonds to the satisfaction of the Illaqa Magistrate/Duty Magistrate/Trial Court concerned.

9. However, the Prosecution will always be at liberty to apply for cancellation of bail in case the petitioner is found to be misusing the concession of bail in any manner.

10. It is also made clear that any observation made herein shall not be treated as an expression of opinion on the merits of the case.

11. Disposed off. Pending applications, if any, also stand disposed off.

05.09.2023

jk

(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO