

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

CRM-M-33391-2023 (O&M)

Reserved on:- 03.10.2023

Pronounced on: 16.10.2023

VINOD

.... Petitioner

VERSUS

STATE OF HARYANA

.... Respondent

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Bawa Karanveer, Advocate for
Mr. Deepak Kaushal, Advocate for the petitioner.

Ms. Priyanka Sadar, AAG Haryana.

ALKA SARIN, J.

1. 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 case FIR No.77 dated 10.03.2021 registered under Sections 376(3), 376(2)(n), 354-D, 506 of the Indian Penal Code, 1860 and Section 6 of Protection of Children from Sexual Offences Act, 2012 at Police Station Adampur, District Hisar.

2. The brief facts of the present case are that on 10.03.2021 the complainant/victim, who is about 15 years of age, came to the Police Station Adampur and lodged a complaint wherein it was stated that her neighbour namely, Vinod i.e. the petitioner herein, had made a call to her on 26.12.2020 asking her to come at 11:00 pm in the night and threatened her that if she did not come her brother would be killed. As such, the

complainant had gone to the place of the petitioner where she was raped and she was threatened not to disclose the said fact to anyone. Subsequently, again on 29.12.2020 the complainant was called by the petitioner and when she went to the house of the petitioner she was again raped. On the basis of her statement, the present FIR was lodged. The statement of the prosecutrix was recorded under Section 164 CrPC wherein she stated that wrong act had been committed with her on 26.12.2020 and 29.12.2020 by the petitioner herein.

3. Learned counsel for the petitioner would contend that though the incident is dated 26/29.12.2020, however, the FIR itself was lodged on 10.03.2021 and the medical was also conducted on 10.03.2021. The learned counsel would further contend that the prosecutrix has since been examined and she has not supported the case of the prosecution. Learned counsel would further contend that the petitioner has been in custody for 1 year 4 months and 28 days.

4. Learned counsel for the State has referred to the status report filed by way of an affidavit of Mr. Kaptan Singh, HPS, Deputy Superintendent of Police, Law & Order, Hisar to contend that the complainant/victim had stated in her statement under Section 164 CrPC that she had been raped by the petitioner herein. However, learned counsel for the State is not in a position to deny that now in her statement recorded before the Court below the victim has not supported the case of the prosecution. Though in the cross-examination conducted by the State different stands have been taken, however, she has stated that she was raped by the petitioner. In the cross-examination conducted by the counsel for the

accused she has stated that she has made the statement as per the asking of her family members and nothing wrong had been committed with her and that there was a dispute over the flow of water in the drain (*nali*) of the street. Learned counsel for the State has filed the custody certificate and as per the custody certificate the petitioner has been in custody for a period of 1 year 4 months and 28 days.

5. Heard.

6. In the present case the incident itself is alleged to have taken place on 26.12.2020 and 29.12.2020. The FIR was lodged on 10.03.2021. The medical does not support the allegations since a period of over two and a half months had elapsed since the alleged incident. The victim though in her statement recorded under Section 164 CrPC had stated that a wrong act had been committed with her by the petitioner, however, in her statement she has not supported the case of the prosecution. The petitioner has been in custody for a period for 1 year 4 months and 28 days. The trial is likely to take some time to conclude and no useful purpose would be served by keeping the petitioner behind the bars any further.

7. In view of the above and without commenting upon the merits of the case, this Court deems 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 Trial Court/Additional Sessions Judge (Duty) concerned.

8. 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.

9. 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.
10. Disposed of. Pending applications, if any, also stand disposed of.

16.10.2023
Aman Jain

(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: Yes/No