

In the High Court for the States of Punjab and Haryana at
Chandigarh

CRM-M-38038-2023 (O&M)

Date of Decision: December 06, 2023

Gurmeet Singh @Meetu

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. R.S. Cheema, Senior Advocate with
Mr. Ishan Khetarpal, Advocate,
for the petitioner.

Mr. Ranvir Singh Arya, Addl.A.G., Haryana

Ms. Himani Anand, Advocate,
for the complainant.

Vivek Puri, J.

CRM-48870-2023

1. This is an application for placing on record the certificate (Annexure P-16).
2. For the reasons mentioned in the application, the same is allowed. Annexure P-16 is taken on record.
3. Registry is directed to annex the document at the appropriate place.
4. Application stands disposed of.

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5. Petitioner is seeking regular bail in case bearing FIR No. 509, dated 04.10.2022, under Sections 376(3), 450,

506 of the Indian Penal Code (for short `IPC') and Section 4 of the Protection of Children from Sexual Offences Act (for short `POCSO Act') (Sections 376, 354, 511 IPC and Sections 12, 18 of POCSO Act added later on), registered at Police Station Pundri, District Kaithal.

6. Status report by way of an affidavit of Lalit Kumar, HPS, Deputy Superintendent of Police, Kaithal, on behalf of the respondent and custody certificate are taken on record.

7. Briefly, the FIR has been registered on the allegations that the victim was aged about 14 years at the time of occurrence. On 27.09.2022, the complainant i.e. mother of the victim was away from the house to attend the marriage. In her absence, the petitioner came to the house and on finding the victim alone, he forcibly tried to commit wrong act with her. On 02.10.2022, the complainant along with the family members had left the victim alone in the house and to visit a Temple at Fatehpur. At about 9 O'clock, the petitioner came to the house, gagged the mouth of the victim and forcibly committed rape upon her.

8. Learned senior counsel for the petitioner contends that there is a delay of 2 days in lodging the FIR. The matter was never reported with regard to the incident dated 27.09.2022 at the earlier instance. Even, as per the report of the FSL, no semen has been detected. Besides, at the

relevant period of time, on 02.10.2022, the petitioner was present in a gymnasium. The printouts of the screenshots depicting his presence in the gymnasium have been placed on record. Even the Investigating Agency was also informed in this regard, but no material has been collected with regard to the CCTV footage. The CCTV recordings indicate that the victim was present in the gymnasium at about 9 a.m. on 02.10.2022. At the time of medico-legal examination, the victim had given the history of sexual assault which took place at about 9 am. However, her statement under Section 161 Cr.P.C. has been ante dated to defeat the plea of *alibi* and it has been mentioned that the occurrence took place at about 7/9 O'clock. Even the time of occurrence has not been mentioned by the victim in her statement under Section 164 Cr.P.C. The statements of the victim and the complainant have been recorded during the course of trial. The petitioner is in custody for a period of 01 year and 02 months.

9. Learned State counsel and the counsel for the complainant have opposed the bail application on the score that while appearing in the witness box, the victim and her mother have leveled categoric allegations against the petitioner and supported the prosecution version. It has also been pointed out that the history as narrated by the victim indicates that there were traces of semen on the bed sheet.

Significantly, the bed sheet has not been sent for chemical examination.

10. It is significant to note that the victim was aged about 14 years at the time of occurrence. In her statement under Section 161 Cr.P.C., she has stated that the occurrence took place at about 7 AM to 9 AM. While appearing in the witness box, she has also deposed to the effect that the occurrence took place between 7 AM to 9 AM on 02.10.2022. She has leveled specific and categoric allegations against the petitioner and had also identified her during the course of her examination. Merely because, the semen was not detected as per the report of the FSL, it cannot be construed as a circumstance at this stage to conclude that the version, as put forth by the prosecution, is false. In the event, the bed sheet has not been sent for forensic examination and the imperfect investigation, if any, conducted cannot be termed to be a circumstance to enure any benefit to the petitioner at this stage, particularly in view of the fact that the victim and her mother have imputed categoric and specific allegations against the petitioner. The plea of *alibi* as sought to be put forth will be a subject matter of adjudication during the course of trial. Initially, the petitioner had made an attempt to commit wrong act with the victim on 27.09.2022. Although, the matter was not reported at that point of time, but it gave strength and

courage to the petitioner to sexually assault and abuse the victim at a subsequent stage. The allegations against the petitioner are to the effect that he had committed penetrative sexual assault upon the victim, who is aged about 14 years.

11. Keeping in view the gravity of allegations and the supporting evidence, no justified ground is made out to extend the concession of bail to the petitioner.

12. Instant petition is dismissed accordingly.

December 06, 2023
vk

(Vivek Puri)
Judge

Whether reasoned/speaking	:	Yes/No
Whether reportable	:	Yes/No