

209 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-42592-2023 (O&M)

Date of Decision: 11.12.2023

SHIV KUMAR

.....PETITIONER

Vs.

STATE OF HARYANA

.....RESPONDENT

CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Present: Ms. Anu Garg, Advocate, with
Mr. Rajat Chowdhary, Advocate,
for the petitioner.

Mr. Kirpal Singh Thakur, A.A.G., Haryana.

HARPREET KAUR JEEWAN J. (ORAL)

[1] The present petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case FIR No. 0121 dated, 05.07.2021 registered at Police Station Jhojhu Kalan, District Charkhi Dadri, under Sections 376 (2) (n), 376 (3), 450 and 506 of the IPC read with Section 34 thereof and Sections 4, 6, 12 of the Protection of Children from Sexual Offence Act, 2012 (Sections 354-D and 452 IPC added later).

[2] The petitioner is facing trial with the allegation that on 05.07.2021, the petitioner came to the house of the prosecutrix who is 14 years of age and committed rape on the prosecutrix. Apart from this co-accused of the petitioner namely, Vikram Kataria, Dinesh and Sandeep were also involved in the alleged rape committed upon the prosecutrix. The petitioner Shiv Kumar threatened the prosecutrix to kill her family members, if she disclosed these facts to anyone.

[3] Learned counsel for the petitioner submitted that two of the co-accused of the petitioner have already been granted the concession of bail by the Additional Sessions Judge and one of the co-accused of the petitioner has been granted the concession of regular bail under Section 439 Cr.P.C. by this Court.

[4] Learned State counsel submits that the petitioner is the main accused. DNA profiling of blood of accused Shiv Kumar matched with semen detected on undergarments of minor victim. The minor victim and her mother have already been examined and they have supported the allegations of rape by the petitioner.

[5] Keeping in view the above facts, there are serious allegations against the petitioner. The victim and her mother have supported the case of the prosecution and age of the victim is just 14 years. This Court is of the considered opinion that no ground for concession of regular bail under Section 439 Cr.P.C. is made out. The facts and allegations against the petitioner are distinguishable from the allegations against the co-accused who have been granted the concession of bail.

[6] Consequently, the petition is dismissed.

[7] However, nothing expressed hereinabove would be construed to be an expression of opinion on merits of the case.

[8] Pending miscellaneous application (s), if any, shall also stand disposed of.

December 11, 2023
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(HARPREET KAUR JEEWAN)
JUDGE

Whether Speaking	Yes
Whether reportable	No