

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M 44472/2022

Date of decision: 20.07.2023.

Kuldeep @ Sandeep

.....Petitioner

Vs.

State of Haryana and another

.....Respondents

CORAM HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Sanjiv Gupta, Advocate for the petitioner.
 Ms.Meera Garwa, Advocate for complainant.
 Mr. Arjun Lakhanpal, AAG Haryana.

Nidhi Gupta, J.

Petitioner-Kuldeep @ Sandeep son of Ram Avtar in this first petition under Section 439 Cr.PC seeks regular bail in case FIR No.24 dated 13.5.2022 under Sections 376(2)(n), 376-DA, 376(3) and 506 IPC and Section 6 of POCSO, PS Women, Sirsa.

As per allegations in the FIR which was registered on the complaint of the prosecutrix herself, it is stated that she was 14 years old and studying in 8th standard. It is alleged that the petitioner Kuldeep alias Sandeep about 20 days back had handed over to her his mobile no. 99923-88833 and asked her to talk with him on this number and if she did not do so, he threatened to kill her. Thereafter, she started talking to him about ten days prior to incident. It was alleged that he called her at his workplace where accused Kuldeep and Vikas were present. They removed her clothes and both of them committed rape upon her and further threatened not to disclose that

to anyone. On 12.05.2022 Kuldeep called the complainant again at about 11.00 P.M. On going there Kuldeep forcibly removed her clothes and committed rape upon her.

Ms. Meera Garwa, Advocate files her Vakalanama on behalf of the complainant which is taken on record.

Ld. State counsel has produced custody certificate dated 19.7.2023 which is also taken on record.

Ld. Counsel for the petitioner submits that all the witnesses including victim/complainant have turned hostile. Ld. Counsel refers to deposition of the victim/PW1 (Annexure P-2) wherein she has stated that “....*I have never seen accused Kuldeep and Vikas*”. Ld. Counsel further refers to deposition (Annexure P-3) of mother of the victim/PW2 who has also stated that she does not know the petitioner Kuldeep and Vikas. She further stated that they did not commit rape upon her daughter/victim at any point of time nor victim told her about that nor she made any statement against both the accused. Ld. Counsel also refers to deposition of the father of the victim (Annexure P-4) wherein above stated stand is reiterated by him.

Ld. Counsel further submits that petitioner is in custody since 14.5.2022 and accordingly regular bail be granted to him. Ld. Counsel further relies upon judgment of this Court in **Mintu v State of Punjab, Law Finder Doc Id # 945864**.

Ld. Counsel for the State opposes the prayer for regular bail and submits that at the time of incident the victim was 14 years old only and was called in the fields by the petitioner and his friend and was gangraped by both the accused. It is further submitted that no doubt all the witnesses have

turned hostile before the Id. Trial Court, however, in her statement dated 14.5.2022 under Section 164 Cr.PC (Annexure R2) the victim had supported the case of the prosecution. It is further submitted that the petitioner has actually undergone custody of 1 year 2 months and 5 days.

After hearing Id. Counsel for the parties and keeping in view the totality of facts and circumstances of the case, no case for grant of bail is made out.

Dismissed.

However, nothing stated above shall be taken as an expression of opinion on the merits of the case.

20.07.2023.	(Nidhi Gupta)
Joshi	Judge
Whether speaking/reasoned	Yes
Whether reportable	Yes/No