

213

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-45293-2022 (O&M)
Reserved on : 16.08.2023
Date of decision : 21.08.2023

Goldy @ Umesh Verma ... Petitioner(s)
Versus
State of Haryana and another ... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Rajesh Duhan, Advocate for the petitioner.
Ms. Mayuri Lakhanpal Kalia, DAG Haryana.

ALKA SARIN, J.

1. This 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.639 dated 30.09.2021 registered under Section 6 of the Protection of Children from Sexual Offences Act, 2012 and Sections 376-AB, 376(2)(n) and 506 of the Indian Penal Code, 1860 at Police Station City Panipat, District Panipat (Annexure P-1).
2. Learned counsel for the petitioner would contend that the petitioner has falsely been implicated in the case and that the prosecution is delaying the recording of evidence. It is further the contention that the grandmother of the victim, who was present at home, has not been joined as a prosecution witness. Learned counsel further submitted that the petitioner

CRM-M-45293-2022 (O&M)

has been in custody for a period of 01 year 07 months and 29 days and that he has absolutely clean antecedents.

3. Learned counsel for the State on instructions from ASI Rajinder has stated that the victim in the present case is an 11 years' old child who is a Class-V student. The child was left at her grandmother's house as her grandmother was unwell. The petitioner herein, who is the Uncle (*Tayya*) of the minor child, committed rape upon her while she was residing at her grandmother's house. The minor child in her statement under Section 164 CrPC has supported the case of the prosecution.

4. Heard.

5. In the present case on 30.09.2021 a zero FIR No.2 dated 30.09.2021 under Section 376 IPC and Section 6 of the POCSO Act was registered at Police Station Parsad Nagar, Delhi. It was sent by post to Police Station City Panipat, District Panipat. The allegations in the FIR are that the victim aged 11 years was with her grandmother and Uncle (*Tayya*) for about a period of one month as her parents had left her there to take care of the grandmother who was unwell. It is further the allegation that normally her grandmother would bring her food but one day her Uncle got her dinner and thereafter she started feeling sleepy. She went to sleep, however, when she opened her eyes she found her mouth tied with a *patti* and her hands also tied. She saw her Uncle Goldy near her and he had pulled down her shorts and had put his private part in her private part. She felt pained and cried. Her Uncle (*Tayya*) threatened to kill her family and, hence, she did not disclose the incident to anybody. The same incident was repeated after 2-4 days. All these incidents happened after her grandmother had gone to sleep.

CRM-M-45293-2022 (O&M)

After few days, there was a function at the house of her *Bua* in which her parents also came and that is when she told her parents that she did not want to live in her grandmother's house and went to Delhi with them. Thereafter, she had never visited her grandmother's house. Since she was experiencing stomach pain, her mother asked her about the same and then she told her mother that her Uncle (*Tayya*) had touched her in a bad way. On the basis of the statement, the FIR was registered under Section 376 IPC and Section 6 of the POCSO Act.

6. As per learned counsel for the State, out of 15 witnesses, 05 stand examined and the trial is progressing. Grave and serious allegations have been made against the petitioner of having committed rape upon a minor girl as also to have subjected her to criminal intimidation by extending threats to kill her family.

7. Keeping in view the nature of the allegations as also the fact that the minor girl has fully supported the case of the prosecution in her statement recorded under Section 164 CrPC, I do not find this to be a fit case for grant of regular bail to the petitioner. Accordingly, the present petition is dismissed. Pending applications, if any, also stand disposed off.

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

21.08.2023
Yogesh Sharma

(ALKA SARIN)
JUDGE

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