

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

235

CRM-M-52633-2023(O&M)

Date of Decision: 22.11.2023

HARMAN @ HARMANPREET SINGH

.... Petitioner

VERSUS

STATE OF HARYANA AND ANOTHER

.... Respondents

CORAM: HON'BLE MRS. JUSTICE ALKA SARIN

Present: Mr. Manoj Pundir, Advocate for the petitioner.

Ms. Priyanka Sadar, AAG Haryana for respondent No.1.

Mr. Joginder Pundir, Advocate for respondent No.2.

ALKA SARIN, J. (ORAL)

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 FIR No.1135 dated 26.12.2022 under Sections 328, 363, 366 (Section 328 deleted and Section 376 added later on) of the Indian Penal Code, 1860 and Section 4 of Protection of Children from Sexual Offences Act, 2012 registered at Police Station Karnal City, District Karnal.

2. The FIR in the present case was registered on the complaint made by the mother of the victim who stated that her neighbour, namely, Harman (the petitioner herein) had taken her daughter at around 11:00 pm after intoxicating her. He had taken her daughter to the adjacent house where he committed bad acts with her. It is further alleged that the complainant tried to catch him but he ran away. The age of the daughter is stated to be 16 years. The victim was taken for medical examination at 3:15 am on the intervening night of 25/26.12.2022. The statement of the victim was

recorded under Section 164 CrPC where she stated that she was taken by her neighbour, Harman, and he had forcibly administered something to her to eat and she became unconscious and that he took her near her house and thereafter she did not know what happened to her.

3. Learned counsel for the petitioner would contend that the medical was conducted on the intervening night of 25/26.12.2022 and the samples were sent for DNA testing to the Forensic Science Laboratory. As per the FSL Report, Madhuban, Karnal, no semen was detected on any of the exhibits. Learned counsel would further contend that even the blood samples did not show that any substance had been administered to the prosecutrix. It is further the contention of the learned counsel for the petitioner that the statement of the prosecutrix (which has been appended with CRM-48572-2023) stands recorded and she has not supported the case of the prosecution.

4. Learned counsel for the State, on the instructions from ASI Jaipal, has stated that the petitioner was arrested on 18.04.2023 and there is no other case pending against him. Learned counsel for the State is not in a position to deny the fact that the FSL Report does not show the presence of semen on any of the exhibits. Learned counsel has filed the custody certificate and as per the custody certificate the petitioner has been in custody for a period of 7 months and 3 days.

5. Heard.

6. In the present case the petitioner has been in custody for a period of 7 months and 3 days. FSL Report does not support the case of the

prosecution inasmuch as no semen was detected on any of the exhibits which was sent to the Forensic Science Laboratory, Madhuban, Karnal. The victim has also not supported the case of the prosecution and has stated in her statement in Court that no wrong act was committed with her. There is no other case pending against the petitioner. 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 off. Pending applications, if any, also stand disposed off.

22.11.2023

Aman Jain

(ALKA SARIN)
JUDGE

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