

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

211

CRM-M-42322-2023

Date of Decision: January 18, 2024

Aadesh

.....Petitioner(s)

Vs.

State of Haryana

.....Respondent(s)

CORAM: HON'BLE MS. JUSTICE SUDEEPTI SHARMA

Present: Mr. Pranshul Dhull, Advocate
for the petitioner(s).

Mr. Surinder Dagar, DAG, Haryana.

SUDEEPTI SHARMA J. (ORAL)

The present petition has been filed under Section 439 Cr.P.C. seeking grant of regular bail to the petitioner in case FIR No.110, dated 18.11.2021, under Section 376(3) (Sections 376-D, 365, 34 IPC added later on and Section 6 of Protection of Children from Sexual Offences Act, 2012, registered at Women Police Station Manesar, District Gurugram.

2. Upon notice, reply in the connected petition bearing CRM-M-No. 42324 of 2023, by way of affidavit dated 27.11.2023 of Ms. Surinder Kaur, HPS, Assistant Commissioner of Police, CAW West & Manesar Gurugram was filed, wherein it is stated that during investigation on 18.11.2021, the victim girl was medically examined at Government Hospital, Sector 10, Gurugram and as per the medical examination, bruises on the left ankle of victim were found. The doctor has opined that the possibility of sexual intercourse cannot be ruled out and sample for DNA

examination was taken. In her statement, recorded under Section 164 Cr.P.C., the victim girl stated that three boys took her in the van and thereafter she was taken to a room which was bolted from inside where those boys put off her clothes besides slapping her. Then all the boys forcefully committed rape upon her and at about 5:00 a.m. in the morning, the victim girl was left near a liquor vender, who called the police and handed over the victim girl to the police and then section 365 IPC was added. Counselling of the victim was also done from CWC Counselling Centre Sector 15, Gurugram. Later, the victim girl was handed over to her mother i.e. the complainant. All the accused were arrested. It is further replied that as per the record, the age of the victim girl was found to be 13 years, 10 months and 08 days with her date of birth being 10.01.2008.

3. During investigation, Section 376-D was also added in the case. Thereafter, challan was presented and charges have been framed against accused No.1 to 4 including the petitioner under Section 365 read with section 34 IPC and Section 6 of POCSO Act, 2012 in alternative 376-DA and 376(3) IPC.

4. It is further stated in the reply that during the investigation, the victim girl was subjected to medico-legal examination and the sealed parcel containing her vaginal swabs and underwear were taken into police possession and were deposited in FSL, Bhondsi for analysis and as per Laboratory, examination was carried out to detect the presence of semen on the exhibits performing chemical test and microscopy. Based upon this medical examination, the results obtained are given below:

1. Human semen was detected on exhibit-8 (Blanket) and exhibit-9 (underwear). However, semen could not be detected

on exhibit-2 (underwear), exhibit-4 (underwear), exhibit-6 (underwear) and exhibit-7 (vaginal Swabs).

5. Learned counsel for the petitioner contends that charges have already been framed in this case and as per medical report of the victim girl dated 18.11.2021 (Annexure P-2), there is no injury on her person. He further contends that victim girl and complainant have already been examined and, they too have not supported the version of the prosecution. He further contends that conclusion of trial will take sufficient time and thus, prays for grant of regular bail to the petitioner as no purpose would be served by keeping the petitioner behind the bars for indefinite period.

6. Learned State counsel on instructions from S.I. Pinki submits that the case is at fag end and out of total 23 prosecution witnesses, 19 have already been examined and now the case before the trial Court is fixed for 20.01.2024. He contended that if the petitioner is released on bail, he may try to influence/threaten the prosecution witnesses or may flee away from the process of the Court and prays for dismissal of the petition.

7. I have heard learned counsel for the parties and also gone through the record.

8. Perusal of the record reveals that the petitioner is stated to be one of the 3 main accused who had abducted the victim in the ambulance Van and forcefully committed rape on her. The petitioner is specifically named in the FIR got recorded by the mother of the victim. Pawan/co-accused of the petitioner in his confessional statement had admitted the crime committed by him alongwith the petitioner and another co-accused. Besides, as per the FSL report, the blood sample and biological sample of the accused were found matched.

9. In the wake of averments made in the status report and taking note of the fact and circumstances of the present case, coupled with the fact that the blood sample and biological sample of the accused were found matched and that the trial is at the fag end, no ground is made out to grant the relief to the petitioner.

10 Dismissed.

11. All pending applications, if any, stand disposed of.

(SUDEEPTI SHARMA)
JUDGE

January 18, 2024
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No