

Sr. No.220

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

**CRM-M-48280-2023
Date of decision: 21st March, 2024**

BUTTA SINGH ALIAS GURLAL SINGHPetitioner

versus

STATE OF HARYANARespondent

CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Present: Mr. Bhanu Pratap Singh, Advocate
for the petitioner.

Mr. Kirpal Singh Thakur, AAG, Haryana.

HARPREET KAUR JEEWAN, J. (ORAL)

1. Prayer in the present petition filed under Section 439 Cr.P.C. is to release the petitioner on regular bail in case FIR No.131 dated 30.04.2021, under Section 6 of POCSO Act and Section 376-AB of IPC, registered at Police Station Pehowa, District Kurukshetra (Annexure P-1).
2. Learned counsel for the petitioner contends that the petitioner is the father of the prosecutrix and he has falsely been implicated in the present case. Even in the statement of the prosecutrix recorded under Section 164 Cr.P.C. on 01.05.2021 (Annexure P-2), she did not make any incriminating statement against the petitioner. As per the report of Forensic Science Laboratory (Annexures P-3 and P-4), semen could not be detected on any of the exhibits. There are strained relations between the petitioner and his wife due to which, the petitioner has been falsely implicated by the complainant, who is the sister of the wife of the petitioner. The challan has already been presented and the petitioner is facing the trial. It is further contended that the petitioner is in custody since 06.07.2022 and the trial is

3. Learned State counsel has filed the status report by way of affidavit of Sh. Anil Kumar, Deputy Superintendent of Police, Pehowa, District Kurukshetra, on behalf of the respondent-State of Haryana, which is taken on record.

3.1 Learned State counsel has opposed the present petition on the ground of gravity of allegations levelled against the petitioner. Learned State counsel has informed that the trial is almost complete. All the prosecution witnesses have already been examined and the trial is likely to be concluded shortly.

4. I have considered the aforesaid contentions.

5. No doubt the petitioner is in custody since 06.07.2022, however, the allegations against the petitioner are serious in nature. As per the prosecution story, on 30.04.2021, the complainant, who is the sister of the mother of the prosecutrix, reported the matter to the Police alleging that the marriage between the petitioner and her sister was solemnized about 10-12 years ago and the prosecutrix (girl child) was born out of the said wedlock about 03 years ago. However, the mother of the prosecutrix left her matrimonial home about 2½ years ago. On 29.04.2021, at about 10:00-10:30 PM, the complainant heard the shrieks of the prosecutrix “xxx”. She went there to see and found that the petitioner had removed the shorts of the victim (his daughter) and by covering himself with a blanket, he was committing wrong act with her. When the complainant called the victim, the petitioner ran away in fear and left the victim in a naked condition. The complainant assisted the victim to wear her clothes and then she, along with her husband and others, went to the Police Station to report the matter.

6. As per the status report, the Police reached at the spot and during the investigation, a blood stained earth lying near the cot as well as one bed-sheet and a pillow cover were taken into possession.

7. The petitioner is the father of the prosecutrix. The prosecutrix was aged about 3½ years at the time of the alleged occurrence. The complainant is the eyewitness of the occurrence and her statement has already been recorded during the trial. Even the statement of the prosecutrix has been recorded during trial. The contentions of the petitioner that the FIR has been falsely registered against him due to a matrimonial dispute *inter se* the petitioner and his wife and that the complainant is an interested witness, are a matter of trial. The trial is complete. Even as per the medical examination report of the victim (Annexure P-5), there is a history of sexual assault by the father of the victim. It is further mentioned in the medical report that on asking the victim, she told that her father had put his genital organ into her mouth. Redness and inflammation was also found around the hymen.
8. The offence alleged to have been committed by the petitioners is punishable with minimum 20 years of sentence, which may extend to life imprisonment. The prosecution evidence is complete, as such, without commenting anything on the merits of the case and keeping in view the age of the victim and the relationship of the petitioner with the victim, no ground is made out to release the petitioner on bail. Consequently, the present petition stands dismissed.
9. All the pending miscellaneous applications, if any, shall also stand disposed of.

(HARPREET KAUR JEEWAN)
JUDGE

21st March, 2024
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Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No