



counseling and thereafter, they were medico-legally examined. Their statements were recorded under Section 164 Cr.P.C. (Annexures R-3 and R-4). The petitioner was arrested on 09.03.2022.

3. Learned counsel for the petitioner *inter alia* contends that the investigation is complete. The charges have been framed. The petitioner is in custody since 09.03.2022. He has been falsely implicated in this case. The conclusion of the trial will take time.

4. Learned counsel for the State has opposed the petition on the ground of gravity of allegations. Further, referring to the statements of both the prosecutrix (Annexures R-3 and R-4) recorded under Section 164 Cr.P.C., it is contended that as per the academic records, the age of the minor prosecutrix was 16 years and 03 months at the time of the alleged occurrence. It was further contended that the testimony of material witnesses, i.e. victim and the complainant are yet to be recorded.

5. I have considered the aforesaid submissions.

6. Though the investigation is complete and the petitioner is in custody since 09.03.2022, however, it is a case of the sexual abuse of two children. Both the child-victims were recovered on 09.03.2022. As per the prosecution case, the petitioner has allegedly sexually abused the minor victim 'V', who is 15 years of age and a student of VIII Class. The statement of the prosecutrix 'V' recorded under Section 164 Cr.P.C on 11.03.2022 (Annexure R-4) reads as under:-

*“Q. In which class do you study?*

*A. Eight*

*Q. What was your Father's occupation?*

*A. Stitching*

*Confessed that on 26.02.2022 me and my friend 'R' went to Sarai Kelekhan with our friend Deepak Mukhia. We stayed there for three days in a rental room. After three days I returned back to Gurugram. I met the boy named Deepak Som. He lured me and take me to Sohna at his Room where he forced and raped me. He raped me continuously for Seven days."*

7. The victim 'R' has also given a similar statement alleging sexual abuse against the co-accused of the petitioner namely Deepak Mukhia (Annexure R-3). The co-accused of the petitioner namely, Deepak Mukhia is still absconding. As per the status report, the testimony of the material witnesses, i.e. the victim and the complainant is yet to be recorded. The petitioner is a resident of a different State, however, at the time of alleged occurrence he was residing in a rented accommodation at Gurugram. The investigating agency has expressed that the petitioner would abscond, if he is released on bail since his co-accused his still at large.

8. Keeping in view the fact that the testimony of both the minor victims is yet to be recorded and in view of the aforesaid facts, no ground for grant of concession of bail to the petitioner under Section 439 Cr.P.C. is made out.

9. Consequently, the petition stands dismissed.

10. However, it is made clear that nothing observed hereinabove will be taken to be an expression on the merits of the case, which would be gone into by the learned trial Court wholly on the basis of the evidence led/gathered before it.

11. Pending miscellaneous application (s), if any, shall also stand disposed of.

April 18, 2024  
nitin

(HARPREET KAUR JEEWAN)  
JUDGE

|                    |     |
|--------------------|-----|
| Whether Speaking   | Yes |
| Whether reportable | No  |