

2024:PHHC:005121

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

220 CRM-M-51805 of 2023
Date of Decision:15.01.2024

SanjayPetitioner(s)
Versus
State of HaryanaRespondent(s)

CORAM: HON’BLE MRS. JUSTICE SUDEEPTI SHARMA

Present: Mr. Munish Mittal, Advocate, and
Mr. Ankit Kamboj, Advocate,
for the petitioner.

Mr. Ranvir Singh Arya, Addl. Advocate General, Haryana

SUDEEPTI SHARMA, J. (Oral)

1. The present petition has been filed under Section 439 of the Code of Criminal Procedure for the grant of regular bail to the petitioner in FIR No.54 dated 01.02.2021, registered under Section 346 of the IPC (Sections 363/366-A of the IPC and Section 6 of the POCSO Act, 2012 added later on), at Police Station Rajendra Park, Gurugram.
2. Upon notice, reply by way an affidavit of the Assistant Commissioner of Police, West, Gurugram, dated 09.01.2024 has been filed in Court today, which is taken on record. The relevant paragraphs No.7 to 11 are reproduced as under:-

“7. That the petitioner was arrested after receipt of proper incriminating evidence against him on record and he was interrogated. During the course of interrogation, he suffered his disclosure statement conceding to his involvement in the

*commission of the offence complained off. Thereafter, he was produced before Ld. Medical Officer, Government Hospital, Gurugram where he was medico-legally examined. After his medico-legal examination, the Medical Officer handed over the sealed parcel containing blood sample of petitioner for DNA profiling to the investigating agency which was sent for the forensic analysis and the same was received vide opinion No.22/FSLMBN-2209295277; DNA-831/82 dated 03.01.2022. The copy of the FSL report dated 03.01.2022 is being annexed herewith for the kind perusal of the Hon'ble Court as **Annexure R-3.***

8. *That the perusal of the same revealed that the Autosomal STR analysis indicates that DNA profile of source of item No.2 (new born baby 'K'; is matching parenally with the DNA profile of item No. 3 (petitioner Sanjay) and item No. 4 (the victim). Hence, it conclusively proves that baby 'K' is the biological child of the petitioner. The item No. 2 belongs to the baby 'K' and item No.3 and 4 belongs to petitioner and victim respectively which were found matching.*

9. *That during investigation, the academic record of victim was collected from her school to ascertain her date of birth and statements of witnesses were recorded. After completion of the investigation, the final report, as mandated by the provisions of Section 173(2) Cr.P.C. was put in the court of competent jurisdiction **on 20.10.2022 qua the petitioner** for the commission of offences punishable under Section 6 POCSO Act, 2012; 363 and 366 IPC.*

10. *That testimonies of complainant/father of victim and victim have already been recorded. The testimony of victim and complainant/father of victim were recorded as PW3 and PW4 respectively on 03.06.2023 & 12.07.2023, wherein the victim and her father categorcially attributed the commission of offence in question to the petitioner. The victim was a minor (below 18 years*

of age) on the date of occurrence of the offence and her consent, if any, for sexual intercourse is immaterial in the eyes of law.

11. That serious allegations of enticing away of minor victim, aged about 16 years 3 months at the time of commission of offence, and inducing her to establish physical relation with her and further, commission of aggravated penetrative sexual assault on several occasions, thereby impregnating her have been levelled against the petitioner and hence, it is submitted that keeping in view the seriousness and gravity of the offence alleged to have been committed by the petitioner, he is not entitled for regular bail. The allegations levelled against the petitioner are serious in nature. The document Annexure R-2 conclusively establishes the complicity of the petitioner in the commission of the present crime.”

2. Learned State counsel contends that the case is at fag end, out of total 18 cited prosecution witnesses 7 have already been examined and the next date before the learned trial Court is 20.01.2024 for examination of the remaining prosecution witnesses.

3. In view of the reply filed by the State and the submissions made by learned State counsel, learned counsel for the petitioner wishes to withdraw the present petition.

4. Consequently, the present petition is dismissed as withdrawn.

5. All pending applications, if any, also stand disposed off.

(SUDEEPTI SHARMA)
JUDGE

January 15, 2024

dinesh	Whether speaking	:	Yes/No
	Whether reportable	:	Yes/No