



CRM-M-54146-2023

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Sr. No.229

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-54146-2023
Date of decision: 21st May, 2024

VINODPetitioner

versus

STATE OF HARYANARespondent

CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Present: Dr. Pankaj Nanhera, Advocate
for the petitioner.

Mr. Kirpal Singh Thakur, AAG, Haryana.

Mr. Sanchit Punia, Advocate
for the complainant.

HARPREET KAUR JEEWAN, J. (ORAL)

1. The instant petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 seeking regular bail in case FIR No.1473 dated 17.12.2022, under Sections 341 and 506 IPC, 1861 and Section 8 of Protection of Children from Sexual Offences Act, 2012 (Section 4 of Protection of Children from Sexual Offences Act, 2012 and Sections 294, 354-A, 451, 376 IPC, 1860 added later on), registered at Police Station Sadar Hisar, District Hisar (Annexure P-1).
2. Learned counsel for the petitioner *inter alia* contends that in the initial FIR registered on 17.12.2022, there were no allegations of sexual assault against the petitioner. In fact, FIR No.1478 dated 19.12.2022 (Annexure P-3) was registered at the instance of the petitioner and subsequently, in statement of the prosecutrix dated 21.12.2022, recorded under Section 164 Cr.P.C., she levelled the allegations of sexual assault against the petitioner. The petitioner is in custody since 18.01.2023. The FIR was registered at the instance of the father of the prosecutrix



and but the victim is not appearing before the trial Court for recording of her statement during trial.

3. Learned State counsel as well as the learned counsel for the complainant have opposed the present petition on the ground of gravity of allegations levelled against the petitioner.

4. Learned State counsel has filed custody certificate of the petitioner dated 20.05.2024, which is taken on record.

5. The counsel appearing for the complainant undertakes that the victim/complainant shall appear before the trial Court as a witness on the next date of hearing fixed before the trial Court.

6. I have considered the aforesaid contentions and perused the paper book.

7. The prosecutrix has supported her version of sexual assault in her statement recorded under Section 164 Cr.P.C. The initial FIR was registered at the instance of the father of the prosecutrix and the statement of the prosecutrix was not recorded at the time of registration of the FIR. As per the opinion of the doctor in medico-legal report of the prosecutrix (Annexure P-7), the possibility of the prosecutrix being subjected to sexual intercourse cannot be ruled out.

8. I have also considered the counter FIR having been registered at the instance of the petitioner (Annexure P-3) and the medico-legal report of the petitioner (Annexure P-5). As per medico-legal report of the petitioner, injury No.1 are three reddish abrasions, injury No.2 is complaint of pain and swelling, injury No.3 are two reddish abrasions, injury No.4 is also complaint of pain and swelling and injury No.5 is reddish abrasion. The weapon used while inflicting the injuries is blunt.



9. The allegations against the petitioner and the counter-allegations are a matter of trial. The prosecutrix is of tender age of 15 years. There are allegations against the petitioner of sexual assault of a child victim. The statement of the child witness/victim is yet to be recorded during trial, as such, keeping in view the gravity of allegations levelled against the petitioner, at this stage, it is not a fit case for releasing the petitioner on bail. However, the complainant and the victim shall remain bound by the undertaking given in the Court to appear before the trial Court on the next date of hearing for recording of their statements.
10. Consequently, the present petition stands dismissed.
11. Pending miscellaneous applications, if any, shall stand disposed of.

(HARPREET KAUR JEEWAN)
JUDGE

21st May, 2024
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<i>Whether speaking/reasoned</i>	:	<i>Yes/No</i>
<i>Whether reportable</i>	:	<i>Yes/No</i>