



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

**CRM-M-13412-2024 (O&M)
Reserved on: 28th November 2024
Date of decision: 13th January 2025**

GAJENDER AGGARWAL

.....Petitioner

versus

STATE OF HARYANA

.....Respondent

CORAM:- HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Present:- Mr. Saleem Ahmed, Advocate
for the petitioner.

Mr. Amrik Singh Narwal, D.A.G., Haryana.

HARPREET KAUR JEEWAN, J.

1. The instant second petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 (hereinafter referred to as "*the Code*"), seeking regular bail in case FIR No.489 dated 17.08.2022, under Sections 323, 506 of IPC, 1860 and Section 6 of the Protection of Children from Sexual Offences Act, 2012 (hereinafter referred to as "*the POCSO Act*"), registered at Police Station Palla, District Faridabad (Annexure P-1).

2. Learned counsel for the petitioner contends that the first petition bearing No.CRM-M-30184-2023, filed under Section 439 of the Code was dismissed as withdrawn vide order dated 23.08.2023.

2.1 It is further contended that the petitioner has been falsely implicated in this case. The investigation is complete. Challan/final report under Section 173 of the Code has been presented before the trial Court. Conclusion of trial is likely to take time as only one prosecution witness has



been examined after the framing of charge. The petitioner is in custody for the last more than 02 years and 03 months.

2.2 It is further contended that as per the report received from the Regional Forensic Science Laboratory, Bhondsi, Gurugram, semen could not be detected on the vaginal swabs of the prosecutrix. The DNA examination report is not against the petitioner. The petitioner, being a relative of the prosecutrix, has been falsely implicated in this case as he had scolded the prosecutrix for meeting a boy with whom she was having a love affair.

3. On the other hand, learned State counsel has opposed the present petition on the ground of gravity of allegations levelled against the petitioner. It is further submitted that the DNA matching could not be done as the DNA profile could not be generated from the foetus.

3.1 Learned State counsel has filed custody certificate of the petitioner dated 27.11.2024, reflecting his actual custody period as 02 years 03 months and 10 days, which is taken on record.

4. I have heard the learned counsel for the parties and perused the relevant documents.

5. The age of the prosecutrix is 13 years. As per the complaint given by the prosecutrix, upon which the FIR was registered, the petitioner, who is the uncle of the prosecutrix, has repeatedly committed penetrative sexual assault upon her by calling her in his computer centre. The last episode of the sexual assault committed upon the prosecutrix was on 06.08.2022. As per the medical opinion given by the doctor who conducted the medical examination of the prosecutrix (Annexure R-1), the possibility of sexual assault cannot be



ruled out. As per the ultrasound examination report, the doctor opined that the victim was pregnant for 22 weeks and 03 days.

6. The victim is stated to have supported her version in the complaint given by her to the Police as well as in her statement recorded under Section 164 of the Code. Though the challan has been presented and statement of the victim has been recorded, however, keeping in view the age of the prosecutrix and the relationship *inter se* the petitioner and the prosecutrix and also in view of the gravity of allegations levelled against against the petitioner, he is not entitled to grant of regular bail.

7. Consequently, the present petition stands dismissed.

8. Pending miscellaneous applications, if any, shall stand disposed of.

(HARPREET KAUR JEEWAN)
JUDGE

13th January 2025
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<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>