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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****CRM-M-52006 of 2024 (O&M)****Date of decision : January 23, 2025****Vinod****..... Petitioner****Versus****State of Haryana****..... Respondent****CORAM : HON'BLE MR. JUSTICE JASGURPREET SINGH PURI*********

Present :- Mr. Arun Kumar, Advocate
for the petitioner.

Mr. Vishal Kashyap, DAG., Haryana.

*********JASGURPREET SINGH PURI, J (Oral)**

1. The present petition has been filed under Section 439 Cr. P. C., 1973 read with Section 483 of BNSS, 2023 for the grant of regular bail to the petitioner in FIR No.130 dated 20.05.2023 registered under Section 6 of Prevention of Children from Sexual Offences Act, 2012 and Section 323 of IPC at Police Station Bondsri District Gurugram.

2. Learned counsel for the petitioner has submitted that petitioner is in custody for 1 year and 8 months and it is a case where 9 out of 18 prosecution witnesses cited have been examined. He submitted that the FIR was lodged by the mother of the prosecutrix, who was of the age of 14/15 while alleging that the petitioner has committed rape upon the prosecutrix. He further submitted that the aforesaid information was wrongly given by the mother of the prosecutrix and

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even otherwise by assuming the allegations against the petitioner taken to be true, it was a case of consent because the place from where the prosecutrix was stated to be taken away is a densely populated place and therefore, considering the facts and circumstances of the case, the petitioner is entitled for grant of regular bail. He also submitted that when earlier statement of the prosecutrix was recorded she did not raise any plea with regard to threatening the prosecutrix regarding making the photographs viral and otherwise also there are major discrepancies in the statement when she stepped into the witness box during the time of trial where she stated that the petitioner has been threatening for making the pictures viral. He submitted that in view of the major discrepancies the petitioner is also entitled for grant of bail.

3. On the other hand, learned State counsel has submitted that so far as the custody of the petitioner is concerned the same is correct. He has further submitted that 9 out of 18 prosecution witnesses including the prosecutrix have been examined. He also submitted that at the time of trial the prosecutrix who was of the age of 14/15 years has fully supported the prosecution version and even when the medical examination was conducted, the FSL report was found to be positive and semen was detected and even the DNA of the prosecutrix and the petitioner was matched. He has submitted that it is a very serious and heinous offence committed by the petitioner because the age of the prosecutrix was 14/15 years. He has also

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submitted that so far as the plea raised by learned counsel for the petitioner with regard to the consent is concerned the same is immaterial and insignificant because the prosecutrix was a minor girl of the age of 14/15 years, therefore vehemently opposed the grant of bail to the petitioner.

4. I have heard learned counsel for the parties.

5. The petitioner has faced incarceration for 1 years 8 months and 9 out of 18 prosecution witnesses have been examined including the prosecutrix. As per the counsel for the petitioner assuming the allegations to be true with regard to the physical relationship with the prosecutrix the same was by way of consent. However, it is a case of the State counsel that such kind of consent on behalf of 14/15 years old girl is immaterial and insignificant. It was pointed out by learned counsel for the State that the medical examination of the prosecutrix was conducted and the FSL report was found to be positive and even the DNA of the petitioner and prosecutrix had also matched. He also submitted that even at the time of deposing before the court the prosecutrix had fully supported the prosecution version and has also submitted that the petitioner had been threatening the prosecutrix that he will make the photographs viral.

6. This Court after hearing learned counsel for the parties, is of the opinion that considering the aforesaid gravity and seriousness of the offence and allegations levelled against the petitioner, the petitioner does not deserve the concession of bail.



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7.

Consequently, finding no merit in the present petition, the present petition is dismissed accordingly.
8.

However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is only meant for the purpose of decision of present petition.

January 23, 2025archana

(JASGURPREET SINGH PURI)
JUDGE

Whether speaking/reasoned
Whether Reportable :

Yes/No
Yes/No