



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

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CRM-M-24597-2024

Date of decision : 15.09.2025

Vipin Kumar

.....Petitioner

versus

State of Haryana and another

.....Respondent

**CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR**

Present: Mr. Sajal Bansal, Advocate for the petitioner.

Ms. Priyanka Sadar, Senior D.A.G., Haryana.

Mr. Vivek Chauhan, Advocate for respondent No.2.

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**NAMIT KUMAR, J. (ORAL)**

1. The present petition has been filed by the petitioner under Section 439 of Code of Criminal Procedure, 1973 for grant of regular bail in case bearing FIR No.212 dated 20.05.2023 registered under Section 6 of Protection of Children from Sexual Offence Act, 2012 (Section 376 of Indian Penal Code, 1860 was added later on) at Police Station Chandimandir, District Panchkula.

2. Status report by way of an affidavit of Sh. Ashish Kumar, HPS, ACP-HQ-II, Panchkula, on behalf of respondent No.1-State, filed in the Registry is taken on record.

3. Brief facts of the case are that initially a complaint dated 16.05.2023 qua finding of the dead body of a new born baby from the dustbin of the girl's washroom was submitted by the Principal, Government Senior Secondary School, Ramgarh, District Panchkula and on the basis of the said complaint, FIR No.196 dated 16.05.2023

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under Section 318 of IPC at Police Station Chandimandir, District Panchkula was registered. Thereafter, on 19.05.2023, the victim made a statement before the police that she had developed physical relations with Vipin Kumar (the present petitioner) in the month of August, 2022. On 15.05.2023, when she went to washroom of her school, she delivered a dead child which she dumped in a dustbin. She did not know that she was pregnant. She further stated that she had developed physical relations with the petitioner as per her own free will and there is no fault of the petitioner. To the same effect, the victim got recorded her statement under Section 164 of Cr.P.C. on 22.05.2023. Thereafter, on 21.08.2023, the mother of the victim moved an application to the concerned police station for again recording the statement of her daughter under Section 164 Cr.P.C. with a plea that now the victim is free from mental tension and apprehension etc. In pursuance to the aforesaid application, the victim was again produced before the learned Magistrate for recording her statement under section 164 Cr.P.C. and in her subsequent statement recorded under section 164 Cr.P.C., she put allegations against the petitioner as well as one Chandan.

4. Learned counsel for the petitioner submits that the petitioner, who is cousin of the victim, is innocent and has been falsely implicated in the present case by the mother of the victim due to an old grudge with the mother of the petitioner qua some jewellery articles. He submits that in the FIR, the victim herself stated that she had developed physical relations with the petitioner out of her own free will in the month of August, 2022 and the petitioner has no fault. Even in her

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statement recorded on 22.05.2023 under Section 164 of Cr.P.C., the victim herself admitted that the petitioner was her boyfriend since last approx. two years and she had voluntarily developed physical relations with him. Thereafter, on the asking of her mother, the victim got recorded her subsequent statement under Section 164 of Cr.P.C. on 21.08.2023 and made allegations against the petitioner. He submits that the whole prosecution story suffers from material improvements and inconsistencies qua the commission of said offence which is nothing but a result of an after-thought and manipulation done by the mother of the victim.

5. Learned counsel for the petitioner further submits that the petitioner is behind the bars since 20.09.2023 and he is not involved in any other case. He also submits that investigation in the present case is complete; challan stands presented; charges have been framed and out of total 25 prosecution witnesses, only 04 have been examined so far. The trial is likely to take a considerable time to conclude and therefore, no fruitful purpose would be served by detaining the petitioner behind the bars.

6. Per contra, learned State counsel assisted by learned counsel for respondent No.2/complainant, while referring to the averments made in the status report, has vehemently opposed the prayer for grant of regular bail to the petitioner on the ground that the allegations against the petitioner are serious in nature and there is every possibility that after released on bail, the petitioner may influence the prosecution witnesses of the present case. She has also filed custody

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certificate dated 14.09.2025 which is taken on record. As per the custody certificate, the custody period of the petitioner is 01 year, 11 months and 24 days.

7. I have heard learned counsel for the parties and perused the record.

8. As per the prosecution, on 15.05.2023 at about 1:00 p.m., the victim, who is about 15 years old and studying in 10<sup>th</sup> class, went to washroom of her school and delivered a baby. After delivery as there was no movement in new born, the victim presumed that the new born was dead. She got scared and dumped the new born body in a dustbin of the girl's washroom. Although, initially, the victim stated that her relationship with the petitioner was with her consent and without any threat, however, in her subsequent statement recorded under Section 164 of Cr.P.C. on 21.08.2023, the victim levelled specific allegations against the petitioner and one Chandan. She stated that the petitioner, who is her cousin, made a physical relations with her in the year 2021 and further in the month of June, 2022 without her consent. Thereafter, his neighbour Chandan blackmailed her at the pretext that he has her photographs and videos which were sent to him by the petitioner and thereby threatened her that in case she will not make physical relations with him he will make her video viral. In this manner, in the month of August, 2022 Chandan made physical relations with her which resulted in her pregnancy.

9. At the threshold, the facts of the present case are disturbing which indicate that this is a case, where heinous crime of rape has been

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committed upon a minor school going girl of 15 years, who has been trapped by the co-accused and the present petitioner by recording her obscene video and subjected her to sexual exploitation by the main accused i.e. present petitioner, who facilitated other accused person also to sexually exploit her. In the present case, weightage of this fact cannot be ignored that first statement of the minor victim under Section 164 of Cr.P.C. has been recorded on 22.05.2023 i.e. just after two days of registration of the FIR and within one week from the date of giving birth to child on 15.05.2023, when she was evidently in great mental trauma and not in a balanced state of affairs to record her statement, whereas in her subsequent statement under Section 164 of Cr.P.C. on 21.08.2023 which was recorded after she re-united with her family and placed in comparatively secure environment, she has categorically narrated her entire ordeal of repeated sexual assault committed upon her by the accused persons detailing as to how she has been forced to make physical relations with the accused persons under undue influence and by blackmailing her at the pretext of making her video viral, which crime ultimately resulted to subject the victim to give birth to a child in the school premises. Moreover, in her testimony recorded before the trial Court as PW-1 on 10.04.2024, the victim has reiterated the allegations against the petitioner and co-accused Chandan, as leveled by her in the subsequent statement recorded under Section 164 of Cr.P.C. on 21.08.2023, by categorically deposing that the accused-Vipin had come to her house in the village and he forcibly made physical relations with her and at that time, accused had made video of the said incident



and also threatened her that if she would disclose about the said incident to anyone then he would kill her and make her video viral and due to said reason, she did not disclose anything about the incident to anyone. These statements reflect the grave nature of the offence and the active role of the petitioner in commission of a heinous crime of rape upon the minor victim, leaving no room for leniency, at this stage, to grant concession of regular bail to the petitioner.

10. So far as the argument raised by learned counsel for the petitioner that the victim had developed physical relations with the petitioner out of her own free will is concerned, as per the prosecution, age of the victim was about 15 years and 04 months at the time of registration of FIR and, therefore, this contention does not hold any water, since in view of the settled proposition of law 'consent of the minor is immaterial and has no relevance under the POCSO Act, 2012, as the Act aims to protect children from sexual offences regardless of any purported consent, and even if a minor consents to a sexual relationship, it is to be ignored, as minors are deemed incapable of giving lawful consent'.

11. In view of the above, the petitioner prima facie cannot be considered as innocent or falsely implicated in the present case, since there is sufficient and ample documentary evidence against the petitioner, indicating his involvement in luring and exploiting the minor victim girl in perpetrating the heinous crime of rape upon her and subjecting her to further sexual exploitation by blackmailing her to make her obscene video viral, which ultimately subjected the minor

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victim to give birth to a child that too in a school premises. In case such kind of wrong doers, as like the petitioner, are granted protection of any kind in the wake of increasing menace and rising crimes under the provisions of POCSO Act, it will give wrong impact on the society at large, especially on the school going children, being the most vulnerable lot. Therefore, keeping in view the seriousness of the offence committed by the petitioner, this Court is of the considered opinion that in case the petitioner is granted the concession of regular bail, it would go against the object and purpose of the legislature, which has enacted the POCSO Act as special enactment, which aimed at providing robust protection to children from sexual offences.

12. Dismissed.

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

**15.09.2025***kothiyal/mkaundal***(NAMIT KUMAR)  
JUDGE**

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No