

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

CRM No. M-23414 of 2017 (O&M)

Date of Decision: 11.09.2017.

Mani Arora

... Petitioner

Versus

State of Punjab

... Respondent

CORAM : Hon'ble Mr. Justice Jitendra Chauhan

Present : Mr. Manuj Nagrath, Advocate for
Mr. Prateek Pandit, Advocate,
for the petitioner.

Mr. AS Gill, Sr. DAG Punjab.

Mr. Satinder Khanna, Advocate,
for the complainant.

JITENDRA CHAUHAN.J.(ORAL)

This is second bail application under Section 439 Cr.P.C seeking regular bail in case FIR No.59 dated 22.07.2016, registered under Section 354-A IPC and Sections 8 & 10 of Protection of Children from Sexual Offences Act, 2012 at Police Station Division No.8, Ludhiana.

It is contended that the petitioner has been falsely implicated in the present case. The alleged incident of sexual abuse has been concocted at the instance of envious colleagues of the petitioner. The petitioner is in custody since 22.07.2016. It is further contended that the matter has been compromised between the parties vide compromise-deed (Annexure P-2).

On the other hand, the learned State counsel opposes

the bail application. It is submitted that the prosecutrix has supported

the prosecution version in her examination-in-chief recorded before the trial Court.

Heard.

The relevant extract of the judgment rendered in **Jagar Singh vs. State of H.P. 2015(2) RCR (Criminal) 320 (H.P.)**, is

as under:-

“xxxx Allegations of sexual assault are increasing in the society day by day. As per Ruling of Hon'ble Apex Court of India, Court should be sensitive in sexual assault cases. As per Section 30 of the Protection of Children from Sexual Offences Act 2012 there is presumption of culpable mental state and onus is upon the accused to prove that he had no such mental state. The fact whether accused had no such mental state or not cannot be decided at this stage. The same fact will be decided on merits after giving due opportunity to both the parties to lead evidence in support of their case. As per Section 42-A of Protection of Children from Sexual Offences Act 2012 provisions of POCSO Act shall have overriding effect on the provisions of other law to the extent of inconsistency.”

“xxxx It is well settled law that Protection of Children from Sexual Offences Act 2012 is a special Act enacted for protection of minors children and it is well settled law that Court is the guardian of minors and it is also well

settled law that when two interpretations are possible then interpretation favourable to the minors should be adopted by Court in the ends of justice.”

As per the allegations against the petitioner he being a Computer teacher had sexually abused the prosecutrix, aged 12 years, studying in 7th standard in DAV Police Public School, Police Lines, Ludhiana. In her statement recorded under Section 164 Cr.P.C, the prosecutrix has supported the case of the prosecution. Even in her examination-in-chief, she has stood by her statement. It has been observed by the trial Court that there is a writing in the police file in which the petitioner has admitted the fact of misbehaviour with the prosecutrix. This being so, this Court is not inclined to accept the factum of compromise. More so, this is second bail application. The learned counsel has not been able to show any fresh circumstance in favour of the petitioner.

Consequently, the petition is dismissed.

Anything said herein above shall not be construed as an expression of opinion on the merits of the case.

11.09.2017.
SN

(JITENDRA CHAUHAN)
JUDGE

Whether speaking/reasoned :	Yes/No
Whether reportable :	Yes/No