

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

222

CRM-M-42625-2018 (O&M)

Date of Decision : 15.10.2018

Pardeep Kumar @ Deepa

...Petitioner

Versus

State of Punjab

...Respondent

CORAM:HON'BLE MR. JUSTICE P.B.BAJANTHRI

Present: Mr. C.S.Rana, Advocate for the petitioner.

Mr. Luvinder Sofat, AAG, Punjab.

P.B. BAJANTHRI, J.(ORAL)

In the instant petition, petitioner has sought for regular bail under the provision of Section 439 Cr.P.C. in case FIR No.273 dated 06.11.2016, under Section 377 of IPC and Section 4 of POCSO Act (Added later on) registered at Police Station Salem Tabri District Ludhiana.

2. Learned counsel for the petitioner submitted that petitioner is in custody since November, 2016. In the trial proceedings 6 witnesses have been examined out of 9 witnesses. It would take some more time to complete the trial proceedings and he is not involved in any other case. Therefore, he is entitled for regular bail.

3. Per contra, learned State counsel on instructions of ASI Jasmer Singh vehemently contended that having regard to the seriousness of the charge and the observation made by the Sessions court in the order dated 04.01.2017 while rejecting the petitioner's bail application, it is evident from the report of Doctor that there is evidence of intercourse and child has been abused sexually and so also offence relating to Section 4 of the Prevention of Children from Sexual offences added later on.

4. Heard the learned counsel for the parties.
5. No doubt, petitioner is in custody since November, 2016 at the same time seriousness of the charge is required to be taken into consideration. Petitioner not only abused the minor child of 9 years sexually but also threatened him. What Section 377 IPC provides:-

“ Unnatural offences: Whoever voluntarily has carnal intercourse against the order of nature with any man, woman or animal shall be punished with imprisonment for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Further keep on threatening the victim to kill him if he disclose the alleged crime to anyone. In other words, petitioner was blackmailing while committing offence under Section 377 IPC read with Section 4 of POCSO Act. That apart, amongst 9 witnesses, 6 witnesses have been examined and only 3 more witnesses are required to be examined. Therefore, petitioner has not made out a case for bail. Accordingly, petition stands dismissed. However, keeping in view the custody of petitioner since November, 2016, trial court is directed to expedite the matter in concluding the trial at the earliest.

15.10.2018

pooja saini

(P.B. BAJANTHRI)
JUDGE

Whether speaking/reasoned?

Yes/No

Whether reportable?

Yes/No