

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

CRM-M-42152-2017

Date of decision:-11.7.2018

Daya Chand

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Ms.Baljit Mann, Advocate
for the petitioner.

Mr.Neeraj Poswal, AAG, Haryana.

Mr.J.S. Hooda, Advocate
for the complainant.

H.S. MADAAN, J.

This petition under Section 438 Cr.P.C. for pre-arrest bail has been filed by the petitioner – Daya Chand, an accused in FIR No.100 dated 17.10.2017 under Sections 354-A IPC and Section 8 of The Protection of Children from Sexual Offences Act, 2012, registered with Police Station Women Police Station, District Palwal.

Briefly stated, the facts of the case as per the prosecution story are that the FIR in this case was lodged by complainant (name of complainant not being mentioned to conceal her identity and referred to as '*the victim*') daughter of Brijpal, resident of Bhiduki, Police Station Hassanpur, District Palwal against Daya Chand, Principal of Net Bal

Vikash Public School, Bhiduki. In her statement to the police, the complainant – victim aged about 15 years got recorded that she is a student of 10th class in Net Bal Vikash Public School, Bhiduki; that the girl sitting adjacent to her in the classroom was getting her copy checked; that Daya Chand (petitioner) was checking the copy and he placed his hand on her hand repeatedly and rubbed the same; that she brushed aside his hand and asked him as to what he was doing; that Daya Chand did not utter anything and left; that he had stated that if any student wanted to get the copy checked, he/she could get the same checked in his office. According to the complainant on completing her work and for getting the copy checked, she went to the office of the school, where Daya Chand told her that he found her to be very cute and he could quarrel with anyone but did not feel like beating her; that then on 23.9.2017 at the time of Physical Examination Paper, Daya Chand called the complainant to his office 2-3 times and asked her whether her fees had been deposited; that as a matter of fact, he had said the same thing to her repeatedly; that then Daya Chand stated that if the fee has been paid, then the complainant should place her hand in his hand and at that time nobody was present in the office. According to the complainant on 9.10.2017, she was told to get her copy checked; that her friend Ritu was with her; that Daya Chand told Ritu as to why she was not making the complainant understand, to which Ritu had given reply; that then the complainant and Ritu returned from the office; that on 9.10.2017, she narrated the entire incident to her mother, who informed her father and then a complaint was submitted to SDM, Hodal; the complainant accompanied by her father had gone to Women

Police Station, Palwal to lodge the report. It was so done. Formal FIR was recorded.

Apprehending his arrest in this case, the petitioner had approached the Court of Sessions seeking grant of pre-arrest bail by filing an application, however, his such request was declined by learned Additional Sessions Judge, Palwal vide order dated 31.10.2017. As such, the petitioner has approached this Court asking for similar relief.

Notice of the petition was given to respondent – State, which put in appearance through counsel. The complainant has also appeared through counsel.

I have heard learned counsel for the parties besides going through the records.

Learned counsel for the petitioner has contended that the allegations in the FIR are wrong; that as a matter of fact the victim as well her sister had not deposited the school fee and when the school Principal i.e. the petitioner asked them to do so, feeling annoyed father of the petitioner, who is close to SDM, Hodal got the FIR registered.

On the other hand, learned State counsel has submitted that the petitioner has committed a heinous crime of molestation of an innocent girl child and his acts and conduct debar him from seeking the pre-arrest bail, which should not be granted to him.

After hearing the rival contentions, I find that the pre arrest bail is a discretionary relief and is to be granted in exceptional cases and not in routine. It is meant to save the innocent persons from harassment and inconvenience and not to screen the culprits from custodial

interrogation. The allegations against the petitioner are very serious of molestation of a young girl student shattering her confidence in the system. The students at school level have got impressionable minds and they look towards their teachers and Principal for inspirational guidance. They view them as their protectors and the persons, who would teach them good things in the life. If a school Principal/Teacher behaves in such a manner touching the hands of his girl student in a lustful manner and use language laced with sexually provocative words that deserves strong condemnation and cannot be just ignored because if such type of wolves are not dealt with strictly and sternly today then tomorrow they will indulge in more heinous crime to the extent of having physical relations with the young girls, who are their students.

Custodial interrogation of the petitioner is definitely required for complete and effective investigation . In case custodial interrogation of the petitioner is denied to the investigating agency, that would leave many loose ends and gaps in the investigation affecting the investigation being carried out adversely which is not called for. The prosecution would not be able to find out as to how the acts were planned and executed, whether the petitioner did it alone or in consultation with somebody. It needs to be mentioned here that the matter had been got probed on administrative side and as per report submitted, the allegations levelled by the complainant were found to have force. Even otherwise, there was no reason or motive for the complainant to involve the accused in this case falsely. The reason suggested that it was on account of the fact that the petitioner was asking the victim and her sister to pay a school fee is least convincing. Merely for

such type of reason, nobody put the moral character of his young daughter, who is expected to get married in the due course in peril and any stigma like that would definitely affect her such prospects. I am not prepared to accept the contention that since the petitioner asked the victim and her sister regarding fee, the victim in connivance with the father involve the accused wrongly.

Thus finding no merit in the petition, the same stands dismissed.

11.7.2018
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No