

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Criminal Misc. No. M-49579 of 2018 (O&M)
Date of decision : November 22, 2018

Sunita

....Petitioner

versus

State of Haryana

....Respondent

Coram: Hon'ble Mr. Justice Fateh Deep Singh

Present : Mr. S.K.Garg Narwana, Senior Advocate with
Mr. Mukesh Rao, Advocate, for the petitioner

Mr. Deepak Sabharwal, Addl. AG Haryana

Fateh Deep Singh, J. (Oral)

This order shall dispose off first anticipatory bail application under Section 438 of the Code of Criminal Procedure of accused-petitioner Sunita filed in case bearing FIR No. 50 dated 25.9.2018 under Sections 120-B, 354-A IPC and Section 10 of the Protection of Children from Sexual Offences Act, 2012, (in short, POCSO Act), registered at Police Station Women, Hansi, District Hisar.

The brief allegations which forms the FIR have been levelled by a minor girl student of class 10th in Swami Deepa Nand Girls Gurukul, Ghirai meant for the girls, which is run by co-accused non-applicant

Krishan Nand who is termed to be a Sanchalak. In the said Gurukul, girls from 7th class to 10th class reside in the hostel. The premises comprises of the Hostel, Gurukul and Gaushala. The petitioner who is a divorcee aged around 45 years is the Principal of the school and lives in the school premises. The present case was got registered on the allegations that three weeks prior to the registration of this FIR co-accused non-applicant Maharaj Shri Krishan Nand Ji around 3.00 PM sent all the girls to their dwelling units and called the prosecutrix and asked the girl to be his friend to which she refused and thereafter the accused is alleged to have with bad intention kissed on the mouth of the prosecutrix and thereafter told her not to disclose it to any one. The girl confided in one of her friends and thereafter the matter was reported to the present accused-petitioner who was in her office and who snubbed the prosecutrix and told her not to disclose to any one and rather threatened that she would be thrown out of the hostel. It is thereafter the girl disclosed the incident to her father on telephone. It is alleged that 10 minor girls students are the victims of the accused out of which six victims have made statements under Section 164 Cr.P.C. and four under Section 161 Cr.P.C. levelling allegations against the accused. It was thus the principal accused Krishan Nand was arrested.

Mr. S.K.Garg Narwana learned senior counsel for the petitioners have argued that there is no element of criminal conspiracy and petitioner is only a Principal in the school and has no role to play in the commission of the offence. Counsel has drawn the attention of this Court

to letters Ex. P5 and P6 to bear out that on 10.9.2018 and 15.9.2018 the victims were not in the school premises and rather has sought to level insinuation that the prosecutrix because of misconduct for carrying on talks with a boy on phone was rusticated. It is further contended that the occurrence has taken place in Gaushala and therefore, the Principal who is incharge of the school cannot be held liable for the same arguing that nothing is to be recovered from her and is rather a victim of this vendetta claiming that her joining the investigations would suffice the purpose.

Learned State counsel Mr. Sabharwal assisted by ASI Rakesh from Police Station Women, Hansi has opposed the grant of bail on the grounds that it is not a single victim and rather more than ten minor girls staying in the premises comprising of the school Gaushala forms the Gurukul and who have testified against the accused and the manner in which the present petitioner has snubbed and threatened the victims are in itself suggestive of this larger angle of criminal conspiracy between the employer and the petitioner arguing that in view of the large scale abuse of minor girls at the institution and in view of the seriousness of the allegations does not entitles the petitioner to any bail.

Going through the submissions of the two sides and on perusal of the records of the case, the prima facie allegations are reflective of the enormosity of these shoddy goings on in the Gurukul. Admittedly the petitioner resides in the school alone and being Principal as well having been informed and brought to the knowledge of this instead of initiating

action necessitated under the provisions of Section 19 read with Section 21 of the POCSO Act has done to the contrary and thus her conduct in itself is violative of the mandate of the POCSO Act. Without feeling the necessity to comment further else it might prejudice the either party the number of victims in their statements under Sections 161 and 164 Cr.P.C. leaves no scope to doubt the veracity of the allegations. The arguments that have been sought to be projected to denounce the conduct of the prosecutrix having been rusticated does not bear much fruit as other students too have materially supported these allegations. In view of such serious offences having been committed of child abuse certainly cannot be ignored. More so as has been argued by the State, the investigations are at initial stage. If allowed bail, there is every likelihood the petitioner might influence the witnesses who are students of the school and belongs to families of residents of nearby area. More-so the provisions of Section 438 Cr.P.C. are to be sparingly used. There being no grounds for allowing such a relief, the bail application being without merit stands dismissed.

November 22, 2018
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(Fateh Deep Singh)
Judge

Whether speaking/reasoned ?
Whether Reportable ?

Yes/No
Yes/No