

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Criminal Misc. No. M-54480 of 2018 (O&M)
Date of decision : December 14, 2018

Vinod Kumar

....Petitioner

versus

State of Haryana

....Respondent

Coram: Hon'ble Mr. Justice Fateh Deep Singh

Present : Mr. Ankit Grewal, Advocate, for the petitioner
Mr. Amrik Narwal, DAG Haryana for the State assisted by
SI Ramesh, PS Jullana, Jind

Fateh Deep Singh, J. (Oral)

This order shall dispose of first regular bail application under Section 439 Cr.P.C. of accused petitioner Vinod Kumar in case bearing FIR No. 292 dated 16.10.2018 under Sections 8 and 10 of the Protection of Children from Sexual Offences Act, 2012 and Section 506 IPC, Police Station Julana, Jind.

The present case was got registered by a girl student aged around 15 years studying in 12th class Science stream who was taking tuition along with other girl students from the accused-petitioner. It is alleged that on 15.10.2018 when the prosecutrix happened to be in the tuition class she

was sent to the kitchen of the house of the petitioner for preparing a cup of tea and thereafter it is alleged that the petitioner who is Physics teacher of the tuition centre entered the kitchen and embraced the girl and kissed her leading to the registration of the present case on 16.10.2018 and arrest of the petitioner on the same very day.

Mr. Ankit Grewal, counsel for the petitioner submits that the petitioner is behind the bars for more than two months and there is no allegation of sexual assault and there is no evidence to show any physical abuse by any medico legal means and similar allegations have cropped in her statement under Section 164 Cr.P.C. It was further contended that there is no independent corroboration to this allegation as there were 40 other students but never examined in the investigations.

On behalf of the State Mr. Amrik Narwal, DAG Haryana assisted by SI Ramesh, PS Jullana, Jind has sought to oppose the grant of bail on the ground that a young girl student has sought to be physically touched with bad intention by her teacher and in view of heinousness of crime and seriousness of allegations dis-entitles him to any relief.

Appreciating the submissions, the bare perusal of the FIR and the allegations of the prosecutrix, a debatable issue arises over the very allegations whether they fall within the term of sexual assault as defined in Section 7 of the Protection of Children from Sexual Offences Act, 2012 and therefore applicability of Sections 8 and 10 of the POCSO Act is a question which can only be answered when the parties lead their evidence. The

petitioner is behind the bars for more than two months. Culpability, if any, shall be determined at the trial which is not likely to be concluded in near future, no purpose will be served by retaining the petitioner in jail. Accordingly, he is ordered to be released on regular bail to the satisfaction of learned Chief Judicial Magistrate/Duty Magistrate, Jind.

The present petition stands disposed off accordingly.

The observations made herein above shall have no bearing on the merits of the case as these are purely for the disposal of the present bail application.

December 14, 2018
'tiwana'

(Fateh Deep Singh)
Judge

Whether speaking/reasoned ?
Whether Reportable ?

Yes/No
Yes/No