

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Criminal Misc. No. M-7769 of 2019 (O&M)
Date of decision : April 29, 2019

Om Parkash alias Tony

....Petitioner

versus

State of Haryana

....Respondent

Coram: Hon'ble Mr. Justice Fateh Deep Singh

Present : Mr. Deepak Girotra, Advocate, for the petitioner
Mr. Baljinder Virk, DAG, Haryana for the State with
ASI Rajo, PS Badhshapur, Gurugram

Fateh Deep Singh, J. (Oral)

Petitioner Om Parkash alias Tony has sought regular bail under Section 439 Cr.P.C. in case bearing FIR No. 426 dated 9.10.2018 under Section 6 of the Protection of Children from Sexual Offences Act, 2012 and Section 376(2)(n) and 506 IPC, Police Station Badhshapur, District Gurugram, in which case he is in custody since 9.10.2018.

The present case was got registered by a minor girl aged around 15 years. In her complaint the victim alleges that her cousin brother Mohit co-accused non-applicant along with present petitioner

who happens to be the real Chacha (parental uncle) being younger brother of the father of the victim used to often harass her and one day while she was in the house accused Mohit tied her legs and took off her clothes and made attempt to sexually assault her and the present petitioner often used to threaten her. In her subsequent statement under Section 164 Cr.P.C. the victim stated that even the present petitioner when she was student of 7th class and thereafter of 8th class had sexually assaulted her leading to the registration of the present case and arrest of the petitioner.

Mr. Deepak Girotra, counsel for the petitioner has argued that there is neither any specific role attributed to the petitioner in the FIR and subsequently at the belated stage, the allegations have come about.

Mr. Baljinder Virk, DAG, Haryana on behalf of the State assisted by ASI Rajo, PS Badhshapur, Gurugram has opposed the relief on the grounds that a child has been repeatedly sexually assaulted and who has levelled clear-cut allegations against both the accused and the petitioner being senior member of the family had abetted to this commission and which is an offence even by the provisions of Section 29 of POCSO Act.

Appreciating the submissions, the victim as it appears from the records is a tender-heart much traumatized by repeated misuse by the co-accused as well as the present petitioner who is a

grown up person. The shocking crime heaped upon the minor female child is certainly of very heinous nature. Mere period of incarceration of the petitioner is no extenuating circumstance. Finding no merit, the present petition stands dismissed.

April 29, 2019
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(Fateh Deep Singh)
Judge

Whether speaking/reasoned ?	Yes/No
Whether Reportable ?	Yes/No