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

CRM-M-13276-2019

Date of decision:29.04.2019

KULDEEP

... Petitioner

versus

STATE OF HARYANA

.... Respondent

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr. Anil Kumar Bhardwaj, Advocate,
for the petitioner.

Ms. Mahima Yashpal, AAG, Haryana.

HARI PAL VERMA, J.(Oral)

Prayer in the present petition filed under Section 439 Cr.P.C. is for grant of regular bail to the petitioner in FIR No.76 dated 21.05.2018 registered under Section 10 of POCSO Act at Police Station Women, Narnaul, District Mahendergarh.

The aforesaid FIR was registered at the behest of a student, who was studying in class 10th in a school situated at Village Kanti, District Mahendergarh, with the allegation that the petitioner, who is a computer teacher, used to touch the students including the complainant inappropriately.

Counsel for the petitioner has argued that the petitioner is in custody since 22.05.2018. All the students whose statements were recorded under Section 161 Cr.P.C. have already been examined. None of the students have supported the case of the prosecution except Sneha @ Sneh, who has also stated that on 19.05.2018 when the petitioner/accused was

checking notebook in the subject of computer science, he was sitting on his chair, whereas she (Sneha) was reading the book of I.T. subject, and Kavita and Naina had seen the accused while pulling the chunni of the complainant. This witness has not seen this act of the accused at that time. He further states that against the total 22 witnesses cited by the prosecution, only 9 witnesses have been examined so far. In this manner, trial will take sufficient long time. Therefore, noticing the fact that all the prosecution witnesses have either been declared hostile or have not supported the case of the prosecution, the petitioner deserves to be admitted on bail.

On the other hand, learned State counsel, on instructions from SI Vanita, states that no doubt the petitioner is in custody since 22.05.2018, but the witness Sneha, who is a student of the same class in which the complainant was studying, has supported the case of the prosecution. This witness has stated that the petitioner never used to concentrate on teaching, rather he used to touch the girl students inappropriately. She has argued that in case the petitioner is admitted on bail, the petitioner would not only influence the other witnesses rather it would cause embarrassment to the students who would be attending the school, as in the event of grant of bail, he is likely to be posted in the same school.

I have heard learned counsel for the parties.

The custody is not in dispute. The complainant at whose behest the FIR was registered has not supported the case of the prosecution. She has been declared hostile. Similarly, the other students, who were studying in the same class, have not also supported the case of the prosecution except Sneha. Even this witness (Sneha) while appearing as PW has stated that it is

the chunni of the complainant. The argument of learned State counsel that in case the petitioner is admitted on bail, it would cause embarrassment to the students of the school, carries weight.

Accordingly, taking into consideration the long custody and the evidence of the students examined in the case who have not supported the case of the prosecution, this Court finds that the petitioner deserves to be admitted on bail as trial is not likely to be concluded in the near future. Moreover even the complainant had not supported the case of the prosecution.

In view of above, the present petition is allowed and the petitioner is admitted on regular bail subject to his furnishing bail bonds/surety bonds to the satisfaction of trial Court.

However, the Secretary (Education), Haryana, shall ensure that the petitioner is not posted in the same school during the pendency of trial.

It is further made clear that the petitioner shall not influence other witnesses in any manner directly or indirectly and in case it is found that he is influencing the witnesses in any manner, the prosecution shall be at liberty to seek cancellation of his bail.

(HARI PAL VERMA)
JUDGE

29.04.2019
sanjeev

Whether speaking/reasoned?	Yes/No
Whether reportable?	Yes/No