

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

CRM-M-23750 of 2019.

Decided on:- May 28, 2019.

Rajiv Kumar.

.....Petitioner.

Versus

State of Punjab.

.....Respondent.

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA.

Present:- Mr. Ashok Paul Batra, Advocate
for the petitioner.

Mr. Rana Harjasdeep Singh, D.A.G., Punjab.

HARI PAL VERMA, J. (Oral)

The petitioner has filed present petition under Section 439 Cr.P.C. for grant of regular bail in FIR No.98 dated 03.04.2019 under Sections 354-A IPC and Section 12 of the Protection of Children from Sexual Offences Act, 2012 (for short, the POCSO Act) registered at Police Station Zirakpur, District SAS Nagar, Mohali.

As per the aforesaid FIR, on 03.04.2019 at about 09.15 A.M., daughter of complainant Meenu had gone to the house of her brother-in-law, who was residing in the front portion of the house to run a common water motor. The victim had told her mother that one person called her and asked which side is House No.60, Ram Nagar, Baltana. The daughter of complainant informed him that house numbers are mentioned outside the streets. Thereafter, he asked from the victim as from where nipple can be taken to which the victim had replied that it can be got from shop. Thereafter,

the petitioner again asked that what is colour of her nipple, is it red or brown and then asked whether she has hair or not. On the basis of this information so given by the victim, the FIR was registered on the statement of complainant Meenu.

Learned counsel for the petitioner has argued that the petitioner is in custody since 03.04.2019. Apart from the fact that culpability of the petitioner is yet to be established, from the bare perusal of the FIR, it is clear that the petitioner had put a question regarding nipple in the background of a common water motor, but still the FIR has been registered.

Learned State counsel, on instructions from HC Baljinder Singh, has argued that the victim is about 12 years old girl. The petitioner has put a very improper question to the victim, which is filthy and obscene. Therefore, the petitioner does not deserve to be admitted on bail. The conduct of the petitioner cannot be tolerated in a civil society.

I have heard learned counsel for the parties.

The petitioner is in custody since 03.04.2019. The intention as to in which manner the petitioner had put the question to the victim is yet to be established during trial. Therefore, when the culpability is yet to be established and the trial is not likely to be concluded in near future, this Court finds that the petitioner deserves to be admitted on bail.

Therefore, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing adequate bail and surety bonds to the satisfaction of learned trial Court.

However, it is made clear that in case the petitioner influences the prosecution witnesses in any manner directly or indirectly, the prosecution shall be at liberty to seek cancellation of his bail.

The observations made hereinabove shall not be construed as an expression of opinion on the merits of the case and the trial Court shall decide the case without being influenced with these observations in any manner.

May 28, 2019
Yag Dutt

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: No