

214.

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

CRM-M-53579-2018

Date of Decision:13.02.2019

SUBODH PANDEY

...Petitioner

Versus

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr. Atul Sharma, Advocate, for the petitioner.

Ms. Priyanka Sadar, AAG, Haryana.

HARI PAL VERMA, J. (ORAL)

Prayer in this petition filed under Section 439 Cr.P.C. is for grant of regular bail to the petitioner in case FIR No.61 dated 20.09.2018 registered under Section 8 of POCSO Act at Women Police Station Manesar, Gurugram.

Learned counsel for the petitioner states that the contents of the FIR which was got registered by Manoj (father of the victim) and the statement of the prosecutrix are at variance. In fact the complainant wanted to evict the petitioner from the premises in his tenancy. Petitioner is in custody since 20.09.2018. There is no allegation in the FIR that the petitioner was in drunken condition, whereas the prosecutrix in her statement under Section 164 Cr.P.C. has stated that the petitioner was drunkard. Even otherwise, at the most, the case of the petitioner does fall under Section 7 of POCSO Act i.e. sexual assault. The charge in the case has been framed and the trial will take long time.

Learned State counsel, on instructions from ASI Babita, states that the prosecutrix is about 11 years of age and she has made a specific allegation against the petitioner regarding sexual assault. The allegation being serious, the petitioner does not deserve to be admitted on bail.

I have heard learned counsel for the parties.

The allegation against the petitioner is that on 20.09.2018 when the prosecutrix was alone in the house, the petitioner, who is a tenant in the same building, has teased the prosecutrix by touching on her lips and her breast with hand and did so with wrong intentions. However, in the statement of the prosecutrix under Section 164 Cr.P.C, it has been stated that at that time, the petitioner was in drunken condition, but there is no medical of the petitioner, so as to prove this fact. The allegation that the complainant wanted to evict the petitioner from the premises and therefore, the FIR has been registered, is a matter of trial. But considering the fact that the petitioner is in custody since 20.09.2018 and the charge in the case has been framed and trial will take long time, he is admitted on bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the trial Court.

Accordingly, present petition is allowed.

However, the petitioner shall not influence the witnesses directly or indirectly and in case it is found that he is extending any threat or influencing the witnesses, the prosecution shall be at liberty to seek cancellation of his bail.

February 13, 2019

Jyoti-IV

**(HARI PAL VERMA)
JUDGE**

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No