

**In the High Court for the States of Punjab and Haryana
At Chandigarh**

CRM-M-54265-2018 (O&M)

Date of Decision:- 8.1.2019

Dharmender

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Parminder Singh, Advocate, for the petitioner.

Ms. Aditi Girdhar, AAG, Haryana.

GURVINDER SINGH GILL, J. (Oral)

The petitioner seeks grant of regular bail in case registered vide FIR No.295, dated 5.11.2017, registered at Police Station Quilla, District Panipat, under Sections 4, 6, 17 and 18 of POCSO Act and Section 452 of Indian Penal Code, 1860.

The FIR was lodged at the instance of Renu who has alleged that she has a daughter aged 3 years and that there is a godown below the portion in which they reside. It is alleged that on the day of occurrence after she was finished with washing her clothes she realized that her daughter was not at home and upon inquiry a neighbor namely Raju informed that complainant's daughter had been taken away by Anil towards the godown of

Singla Factory. The complainant went towards the godown where she heard cries and she saw that Anil Chokidar was committing physical excesses upon her daughter in a naked state and upon noticing her he fled away from the spot.

Learned counsel for the petitioner has submitted that he is not named in the FIR and it was on the basis of supplementary statement of Raju that the petitioner was implicated in the case. Learned counsel has further submitted that in any case said Raju as well as complainant Renu have been examined in the Court and although the complainant stated that both Anil and Dharmender had kidnapped her daughter and that Raju had disclosed the name of the accused Dharmender, but PW Raju has categorically stated that he did not see accused Dharmender at the place of occurrence. It has thus been submitted that it is a case of improvements qua the petitioner and in these circumstances he deserves the concession of bail.

On the other hand learned State counsel while opposing the petition has submitted that since the complainant has specifically named the petitioner while in the witness box, therefore, no case for grant of bail is made out.

Having considered rival submissions addressed before this Court and bearing in mind the fact that the petitioner is not named in the FIR and that it was subsequently that his name figures and also that PW Raju has not supported the case qua the petitioner and also that the petitioner has been behind bars for the last more than 1 year and 2 months, in my opinion, no fruitful purpose would be served by further detaining the petitioner behind bars especially since the trial is not likely to be concluded in immediate future. The petition, as such, is accepted and petitioner-Dharmender is

ordered to be released on regular bail on his furnishing bail bonds/surety bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate, concerned.

This petition stands accepted accordingly.

It is, however, clarified that none of the observations made above shall be taken to be an expression on merits of the main case.

January 8, 2019
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(GURVINDER SINGH GILL)
JUDGE

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