

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

218

CRM-M-36023-2019

Date of Decision:25.11.2019

Gurcharan Singh @ Nikka

.....Petitioner

Versus

State of Punjab

.....Respondent

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

Present: Mr. Nishan Singh Chahal, Advocate,
for the petitioner.

Mr. Saurav Khurana, DAG, Punjab.

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 FIR No.43 dated 09.06.2019 under Sections 354, 354-A, 452 IPC and Sections 7 & 8 of the Protection of Children from Sexual Offences Act, registered at Police Station Balianwali, District Bathinda.

The allegation against the petitioner is that on account of holidays, maternal grand-daughter of the complainant has come to her maternal grand parents' village Bhundar on 01.06.2019. On 07.06.2019, the complainant has arranged a feast at her residence and during this festival, they have sent the girl children upstairs in Chobara (constructed room on the roof), so that they can play there. They heard a voice of their daughter who is victim in the case and immediately thereafter, the complainant and

her sister-in-law(younger brother-in-law's wife) Charanjit Kaur rushed to

Chobara. It was about 7 AM in the morning and on reaching upstairs, they found that the petitioner, aged about 30-32 years was holding the prosecutrix with his both arms extended around her body and was doing obscene acts with her. When the complainant and her sister-in-law reached there and have raised hue and cry, they called her father-in-law Diwan Singh from downstairs. Hearing this, the petitioner manhandled with the complainant and fled to his house scaling the wall adjoining to Chobara.

Learned counsel for the petitioner has argued that the petitioner is in custody since 13.06.2019. The complainant-Kiranjit Kaur and other witnesses i.e. Charanjit Kaur and Diwan Singh have been examined, but they have not supported the case of the prosecution. He has produced on record statements of the complainant and other witnesses Charanjit Kaur and Diwan Singh, wherein they have been declared hostile.

Learned State Counsel, on instructions from ASI Chamkaur Singh, states that the prosecutrix in the case has not been examined so far and merely because other witnesses so examined have been declared hostile, the petitioner cannot be admitted on bail as the allegations against him are serious in nature.

Heard learned counsel for the parties.

Admittedly, the petitioner is in custody since 13.06.2019 and complainant-Kiranjit Kaur and other witnesses Charanjit Kaur and Diwan Singh have not supported the case of the prosecution and have been declared hostile. Moreover, as against total 13 witnesses cited by the prosecution, only 03 witnesses have been examined and even the examined witnesses have not supported the case of the prosecution, this Court deems it appropriate to admit the petitioner on bail.

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

The observations made hereinabove shall not be construed as an expression on the merits of the case and the trial Court shall proceed with the trial independently without being influenced by the order of bail passed by this Court.

It is made clear that the petitioner shall not influence the prosecution witnesses directly or indirectly in any manner.

November 25, 2019
seema

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No