

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

CRM-M-39214 of 2019.

Decided on:- September 19, 2019.

Jaswinder Singh.

.....Petitioner.

Versus

State of Haryana.

.....Respondent.

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

Present:- Mr. Satbir Singh Gill, Advocate
for the petitioner.

Ms. Priyanka Sadar, A.A.G., Haryana.

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.68 dated 30.06.2019 under Sections 376/451/511/176-AB/506 IPC and Section 6/18 of the Protection of Children from Sexual Offences Act, 2012 (for short, the POCSO Act) registered at Police Station Rania, District Sirsa.

The aforesaid FIR was registered at the behest of the prosecutrix, who is aged about 8 years. As per the FIR, on 23.06.2019, when her brother had gone for work, she was alone at home. Thereafter, the petitioner, who is her neighbour, came to her house. He gave Rs.3/- to her and slightly lowered down her underwear. In the meantime, her brother Vikram had come there. Seeing him, the petitioner ran away from the spot.

Learned counsel for the petitioner has argued that apart from the fact that the petitioner is in custody since 01.07.2019, the prosecutrix has

improved her initial version in her statement under Section 164 Cr.PC. There is a dispute between the parties regarding money transaction. There is no allegation in the FIR that the petitioner ever extended threat to the prosecutrix. There is no such allegation in the FIR that the petitioner ever asked her to come to his house and the prosecutrix had replied that her mother will feel bad about it. The trial is not likely to be concluded in near future.

Learned State counsel has argued that the victim is 8 years old girl and there is no major improvement in her statement under Section 164 Cr.PC. The petitioner is guilty for having committed the offence under the POCSO Act as well.

I have heard learned counsel for the parties.

The petitioner is in custody since 01.07.2019. The allegation against him in the FIR is that he had lowered down the underwear of the prosecutrix, whereas while making her statement under Section 164 Cr.PC, the prosecutrix had made improvement over her initial version. She has, rather, stated that while lowering down her underwear, the petitioner had started wrong act with her. The allegations of threat though find mention in statement under Section 164 Cr.PC, but there is no such allegation in the FIR. Therefore, this Court finds that when the culpability of the petitioner is yet to be decided during the trial, the petitioner deserves to be admitted on bail.

Accordingly, 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.

The petitioner is restrained from staying in the locality of the prosecutrix and in case he 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.

September 19, 2019
Yag Dutt

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned:	Yes
Whether Reportable:	No