

229.

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

CRM-M-45247-2019

Date of decision: 29.10.2019

TEJPAL

... Petitioner

versus

STATE OF HARYANA

.... Respondent

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Dr. Anmol Rattan Sidhu, Senior Advocate, with
Mr. Pratham Sethi, 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.31 dated 20.02.2019 registered under Section 8 of POCSO Act (Sections 12, 17 of POCSO Act, 2012 and Sections 323, 506 of IPC added lateron) at Women Police Station, District Gurugram.

Briefly stated, the aforesaid FIR was registered at the behest of mother of the prosecutrix. As per the FIR on 20.02.2019, when her daughter, aged 13 years, was going for tuition in the neighbourhood, the petitioner misbehaved with her. Her daughter told this fact to the complainant. Earlier also, the petitioner misbehaved with her in the similar manner.

Learned senior counsel appearing on behalf of the petitioner while referring to the statement of the prosecutrix recorded under Section 164 Cr.P.C., dated 21.02.2019 and the subsequent statement recorded by her

under Section 164 Cr.P.C. dated 21.05.2019, submits that both the statements are at quite variance. In fact in the subsequent statement, the prosecutrix has improved her initial version so as to fill the lacuna in the case. He further states that on the basis of CCTV footage, the police did not find substance in the allegation and submitted cancellation report. Initially the offence was under Section 8 of POCSO Act and now a new colour has been given by invoking the provisions of Section 12 of POCSO Act. The sentence awarded under Section 12 of POCSO Act is much less than Section 8 of POCSO Act. Petitioner is in custody since 09.09.2019.

Learned State counsel does not dispute the custody and fairly submits that the petitioner was found innocent by the police in the initial version.

I have heard learned counsel for the parties.

Considering the fact that in the earlier incident, the police has found the petitioner innocent and accordingly, cancellation report has been submitted. It is on the basis of the subsequent statement made under Section 164 Cr.P.C. dated 21.05.2019, the offence under Section 12 of POCSO Act has been added in the case in place of Section 8 of the POCSO Act. In this manner, in the background of the case when the prosecutrix has improved her version in her statement under Section 164 Cr.P.C., the culpability of the petitioner is yet to be established, therefore, 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 bail bonds/surety bonds to the satisfaction of trial Court.

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

The observations made hereinabove shall not be construed as an expression on the merits of the case and the trial court shall decide the case on the basis of available material.

(HARI PAL VERMA)
JUDGE

29.10.2019
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Whether speaking/reasoned?	Yes/No
Whether reportable?	Yes/No