

229.

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

CRM-M-45928-2019

Date of decision: 27.11.2019

HARWINDER SINGH @ NONA

... Petitioner

versus

STATE OF PUNJAB

.... Respondent

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr. Balbir Kumar Saini, Advocate,
for the petitioner.

Mr. Saurav Khurana, DAG, Punjab.

HARI PAL VERMA, J. (Oral)

Prayer in the present petition filed under Section 439 Cr.P.C. is for grant of regular bail to the petitioner, pending trial, in case FIR No.53 dated 01.04.2019 registered under Sections 354, 354-A, 457 of IPC and Section 8 of POCSO Act, 2012 at Police Station Bagha Purana, District Moga.

The aforesaid FIR was registered on the statement of the victim, aged about 16 years and a student of 10+2 class. As per the FIR, the victim used to go to her school at Bagha Purana by bus and as and when she used to go to the school or vice-versa, the petitioner, who is a resident of Village Ladhai Ke (Moga) used to harass her and follow her for the last some time. She disclosed this fact to her mother and many times, complaints were made at his house and was made to understand, but he never stopped and continued to harass her. On 28.03.2019, when the victim was sleeping in the

room of her house, it was about 10:30 in the night when the petitioner came inside her room by crossing the house wall and started doing obscene acts with the victim while sitting on her bed. She shouted in a loud voice and after hearing her voice, the other family members woke up and seeing them, the petitioner ran away by crossing the wall after pushing her father.

Counsel for the petitioner has referred to the statement of the victim to contend that it is on account of some political rivalry, the present FIR has been registered against the petitioner. The father of the prosecutrix had contested the Gram Panchayat Members election held in December, 2018 and Ram Singh son of Ruldu Ram of the same village had also contested election. Ram Singh had defeated her father in the election. Ram Singh is a close relative of the petitioner. It is for this reason, the petitioner has been named in the FIR. Counsel states that earlier ***CRM-M-29539-2019*** titled as ***Harwinder Singh alias Nona Versus State of Punjab*** was filed by the petitioner for grant of regular bail. However, that petition was dismissed as withdrawn on 18.07.2019, as on that date, neither the victim nor her father was examined in the case. Now the victim has been examined on 27.08.2019 and has also been cross-examined on 11.09.2019. Similarly, her farther Jasvir Singh has also been examined-in-chief and has also been cross-examined on 11.09.2019. He further states that only 3 witnesses have been examined as against the total 9 witnesses.

Learned State counsel, on instructions from ASI Balteer Singh, does not dispute the custody and the fact that three witnesses have been examined which includes the victim and her father. However, he states that

the allegation against the petitioner are serious. He entered the house of the victim and committed obscene act while sitting on the bed side of the victim. The victim is about 16 years of age.

I have heard counsel for the parties.

The prosecutrix and her father have been examined in the case. Therefore, there is no possibility that the petitioner may influence the witnesses. Petitioner is in custody since 01.04.2019 and the trial is not likely to be concluded in the near future as 6 more witnesses are yet to be examined in the case. Thus, 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

27.11.2019
sanjeev

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