

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

CRM-M-5179 of 2020.

Decided on:- February 11, 2020.

Ajay.

.....Petitioner.

Versus

State of Haryana.

.....Respondent.

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

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

Ms. Gaganpreet Kaur, A.A.G., Haryana.

HARI PAL VERMA, J. (Oral)

The petitioner has filed present petition under Section 439 Cr.P.C. seeking regular bail in FIR No.75 dated 21.07.2019 under Section 8 of the Protection of Children from Sexual Offences Act, 2012 registered at Police Station Women, Manesar, District Gurugram.

The aforesaid FIR was registered at the behest of the complainant, who is mother of the prosecutrix. In the present case, the prosecutrix is about 13 years of age and a student of 9th class. On 21.07.2019, when the complainant had come to her house at about 02.30 P.M. after doing her work, she noted that many persons were gathered in front of her house. She enquired about it and thereafter, the prosecutrix told her that around 01.00 P.M., she had gone to take tea in the house of Manbir, where only Ajay

(petitioner herein), who is brother-in-law of Manbir was present in the house. The petitioner laid her (prosecutrix) down on the bed and while holding her hand, he started opening the string of her Salwar. When the prosecutrix raised a noise, neighbours came there and rescued her. Thereafter, many persons gathered at the spot and they had given beatings to the petitioner.

Learned counsel for the petitioner has referred to the statement of the prosecutrix recorded under Section 164 Cr.PC on 22.07.2019 (Annexure P-1) to contend that the prosecutrix while making such statement has referred the name of some Randhir. Throughout her statement, there is no reference about the petitioner. Even otherwise, the prosecutrix has been examined in the case and she had not supported the case of the prosecution and was rather declared hostile qua the petitioner. Now, when the prosecutrix has named one accused Randhir, this accused has been ordered to be summoned in the case to face the trial.

He has further submitted that the petitioner is in custody since 22.07.2019 and except the prosecutrix, no other prosecution witness has been examined in the case, therefore, trial is not likely to be concluded in the near future.

Learned State counsel, on instructions from SI Meena, does not dispute the custody and admits that the prosecutrix has been declared hostile qua the petitioner. She has not disputed the statement of the prosecutrix so recorded under Section 164 Cr.PC (Annexure P-1).

I have heard learned counsel for the parties.

In view of the fact that the petitioner is in custody since 22.07.2019 and the prosecutrix has already been examined in the case, who

has not supported the case of the prosecution qua the petitioner, and was declared hostile, this Court finds that the culpability of the petitioner is yet to be established during the trial and no fruitful purpose would be served by keeping him in further custody.

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.

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

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.

February 11, 2020
Yag Dutt

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: No