

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-4020-2020 (O&M)
Date of decision: 04.02.2020

Anoop and another

... Petitioners

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. S.S. Duhan, Advocate
for the petitioners.

Mr. Deepak Grewal, DAG, Haryana.

ARVIND SINGH SANGWAN, J. (ORAL)

Prayer in this petition is for grant of regular bail in FIR No.230 dated 12.09.2019 under Sections 6/5 (j) (1) of POCSO Act, registered at Police Station Sadar Narwana, District Jind.

Learned counsel for the petitioners submits that as per allegations in the FIR, registered at the instance of Surajmal, his son Deepak Kumar is aged about 16 years and two boys of his village namely Azad and Anoop (both petitioners) have committed the act of sodomy with his son. It is further submitted that the complainant has appeared as PW1 before the trial Court and stated that his son is aged about 18½ years and some unknown persons have

given beatings to his son and the accused persons present in the Court never gave beatings nor did any wrong act with his son. This witness was declared hostile. In cross-examination, PW1 has stated that he never given the application Ex.P1 to the police and his signatures were obtained on blank papers.

Learned counsel for the petitioners further submits that victim PW2 Deepak, who is stated to be of 18½ years, has stated that some unknown persons have given beatings to him and the accused persons present in the Court never gave any beating to him nor did any wrong act with him. This witness was also declared hostile. In cross-examination, he stated that he has not given the statement Ex.P3 before the police and has not supported the prosecution version. It is thus submitted that in view of statements of PW1 and PW2, it will be a debatable issue to be decided at the final stage of the trial, whether charge under Sections 6/5 (j) (1) of POCSO Act is made out or not against the petitioners, as the complainant and the victim have stated the age of the victim as 18½ years.

Learned counsel for the petitioners has further submitted that the petitioners are not involved in any other case and they are in custody for the last about 04 months and 20 days and conclusion of the trial will take some time.

Learned State counsel, on instructions from ASI Kuldeep Singh and on the basis of custody certificates dated 03.02.2020 of both the petitioners, filed in the Court today, has not disputed the factual position.

Without commenting anything on merits of the case, considering the aforesaid submissions made by learned counsel for the parties, this petition

is allowed and the petitioners are directed to be released on regular bail subject to furnishing their bail/surety bonds to the satisfaction of the trial Court/Illaq Magistrate/Duty Magistrate, concerned.

Petition is disposed of.

[ARVIND SINGH SANGWAN]
JUDGE

04.02.2020

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Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No