

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

**CRM-M No.5768 of 2020  
Decided on: 17.02.2020**

Amit

....Petitioner

Versus

State of Haryana

....Respondent

**CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN**

**Present :** Mr. Neeraj Gupta, Advocate  
for the petitioner.

Mr. Naveen Sheoran, DAG, Haryana.

**ARVIND SINGH SANGWAN, J. (Oral)**

Prayer in this petition is for grant of anticipatory bail to the petitioner in FIR No.13 dated 10.01.2020 registered under Section 4 of the Protection of Children from Sexual Offences Act, 2012 at Police Station Sector 56, Gurugram, District Gurugram.

Counsel for the petitioner has argued that as per the allegations in the FIR, registered at the instance of Ashish Gupta, he is residing in a flat and is having two children. The name of the elder son of the complainant is Aryan Gupta, who is aged about 15 years and is a student of class 10<sup>th</sup>. On the date of incident, at about 10:00 PM, one guard namely Vipin was on a duty and in his room, there was an electric heater and due to extreme cold weather, the son of the complainant namely Aryan Gupta, the victim came down to the ground at about 10:00 PM and went to the guard room where after 25-30 minutes, the petitioner – Amit, who was working as a Bouncer also came in the

guard room. After 10-15 minutes, the son of the complainant left the said place and when he reached to the 3<sup>rd</sup> floor, in the meantime, the petitioner also came there through lift and grabbed the hand of the victim – Aryan Gupta and took him to 8<sup>th</sup> floor where he is having a rented room and thereafter, bolted the room from inside and by threatening the victim, did wrongful act with him forcefully. Thereafter, the son of the complainant managed to escape by unbolting the door and came to his house and informed the incident. The complainant, therefore, called the police and the victim was taken to the Civil Hospital, Gurugram and his medical examination was conducted.

Counsel for the petitioner has further argued that as per the MLR, the following observations was made:-

*“Brought by Police for medical examination*

*Local examination: There is no external injury seen around the buttocks and around the anal. No tear seen in anal region around sphincter bone appears to be normal. No any discharge appear from anal region.*

*Advice Surgeon opinion.”*

Counsel for the petitioner has further submitted that, therefore, the victim was taken before the Judicial Magistrate for recording his statement under Section 164 Cr.P.C. wherein he has stated that the petitioner by putting off his clothes tried to do wrongful act repeatedly and he started crying and thereafter, the petitioner caught hold of his mouth and in the meantime, he opened the door and came to his house. It is further argued that there is a variation in the FIR version and the statement of the victim recorded under Section 164 Cr.P.C. as in the FIR it was stated that a wrong act was done to the victim whereas in

the statement of the victim recorded under Section 164 Cr.P.C., it is stated that an attempt was made.

Counsel for the petitioner has further referred to the statement of the guard namely Vipin, recorded under Section 164 Cr.P.C. wherein it has come that when the victim was sitting in his cabin, the father of the victim i.e. the complainant – Ashish Gupta came in a car and after parking the same went upstairs through lift. It is further stated by the guard that after some time, the victim and his father came down and told that the Bouncer has put off the clothes of his son and he informed the incident to the Supervisor.

Counsel for the petitioner has also submitted that, in fact, as per the own version of the victim, recorded under Section 164 Cr.P.C. he had some issue with his mother, who told the victim that he will not come to home unless his father came back to home and therefore, on account of something, which has happened in their own family, the present FIR has been registered. Lastly, counsel for the petitioner has submitted that the petitioner has already left the Society and is no more residing in the same.

Counsel for the State, on instructions from SI Narinder and the on the basis of the MLR and the statement of the victim as well as the Guard recorded under Section 164 Cr.P.C., has not disputed the factual position but opposed the prayer for bail.

On a Court query, it is stated that except at the gate of the Society, there are no other CCTV camera installed on the individual floor of the Society.

After hearing the counsel for the parties, considering the

submissions made by counsel for the parties, this petition is allowed and the petitioner is directed to appear before the Investigating Officer within a period of 10 days to join investigation and he shall be released on interim bail on furnishing bail/surety bonds subject to the following conditions:-

1. *He shall make himself available for interrogation by a police officer as and when required;*
2. *He shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer; and*
3. *He shall not leave India without previous permission of the Court.*

It is made clear that the petitioner will not visit the Society premises or the place where the child/victim is studying or any other place during the period when he is going or coming from the school by any mode of transportation.

It is further made clear that in case the petitioner is found involved in misusing the concession of bail or found extending any threat to the victim or his family, it will be open for the prosecution to apply for cancellation of the bail.

17.02.2020

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(ARVIND SINGH SANGWAN)

JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable:

Yes/No