

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

CRM-M-8996 of 2020 (O&M)
DATE OF DECISION: 25.09.2020

Mohd. Talib

.....Petitioner

versus

Union Territory Chandigarh

.....Respondent

CORAM:- HON'BLE MRS. JUSTICE ALKA SARIN

Present: Mr. Raj Kishore, Advocate, for the petitioner.

ALKA SARIN, J. (Oral)

Heard through video conferencing.

This is a petition under section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the petitioner in FIR No.217 dated 07.08.2019 under Section 377 of Indian Penal Code 1860 and Section 6 of the Protection of Children from Sexual Offences (**POCSO**) Act, 2012 registered at Police Station Sector 31, Chandigarh during pending trial.

The allegation in the FIR is that the complainant has three children and her elder son i.e. a victim, aged 05 years, was playing in the lawn of the house. At about 2:00 PM she heard cries of her son in the room of the neighbour – the petitioner herein. She came out of the house and found that her son was weeping. When she asked her son the victim disclosed that the petitioner had inserted his urinal part in his back portion. She found blood was oozing from this side. She called up her husband, who informed the police. On the basis of the said allegation the FIR was lodged.

Learned counsel for the petitioner would contend that the petitioner has been in custody since 07.08.2019. It has further been stated that the petitioner has been falsely implicated in the case.

Mr. Kuldeep Tiwari, AAP, UT Chandigarh has filed an affidavit of Paramjit Kaur, Inspector, SHO, Police Station Sector 31, Chandigarh. Along with the affidavit, the MLRs of the accused and the victim dated 07.08.2019 have been annexed as Annexure A1 and A2 and the CFSL report has been annexed as Annexure A3. The learned counsel for the UT Chandigarh has further stated that the offences are clearly made out from the perusal of the MLRs as well as CFSL report.

I have heard learned counsels for the parties.

In the present case the victim is a five year old child who has allegedly been subjected to sexual assault by the petitioner. As per the affidavit filed by the counsel for the UT Chandigarh, *prima facie*, the allegations seem to be supported by the documents produced.

Keeping in view the age of the child, who is only five years old, as well as the gravity of the offence committed by the petitioner, I do not deem it to be a fit case to grant regular bail.

It is, however, made clear that any observation made herein shall not be treated as an expression of opinion on the merits of the case.

Dismissed.

September 25, 2020
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(ALKA SARIN)
JUDGE

Whether speaking/non-speaking: Yes/No
Whether reportable: Yes/No