

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

Crl. Misc. M-12647 of 2020 (O & M)

Date of decision: 28.08.2020

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Sanjay

....Petitioner(s)

Versus

State of Haryana

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA

Present: Mr. P.R. Yadav, Advocate,
for the petitioner.

Mr. Anant Kataria, DAG, Haryana.

(Proceedings are conducted through video
conferencing as per instructions).

G.S.SANDHAWALIA, J. (Oral)

The petitioner seeks regular bail in a petition filed under Section 439 Cr.P.C. in FIR No. 254 dated 22.08.2018 under Section 6 of POCSO Act, P.S. Nangal Chaudhary, District Mahendergarh (Haryana).

It is the case of the petitioner that he was arrested on 07.10.2019 and is in custody since then. It is the contention that on the examination on 21.08.2020, the victim has himself turned hostile before the Trial Court. Copy of the statement has been placed on record. In this way, the prayer for bail is pressed.

A perusal of the paper book would go on to show that the petitioner was nominated as accused alongwith two others on the statement of Sunil brother-in-law of the victim but Ajay Master was declared innocent and the charge sheet was only filed against the petitioner and Harish Kumar.

The said accused was granted anticipatory bail by the Additional Sessions Judge, Narnaul on 31.05.2009. The incident

of sexual harassment was of 21.07.2018 though there was also reference of sexual harassment done 3-4 times earlier. The medical examination of the boy which was conducted on 18.08.2018 and 20.08.2018 (Annexures P-7 and P-8) did not show any injuries to support the case of the prosecution. The statement under Section 164 Cr.P.C. has also been recorded after an year on 13.08.2019 (Annexure P-3)

Keeping in view the above facts as noticed above, this Court is of the opinion that no useful purpose would be served by keeping the petitioner in custody during the trial as he has already undergone detention of over 10 months. The factum whether he is guilty or not will have to be finally decided by the Trial Court. But at this point of time on account of the statement of the victim himself, who is the prime witness, and also the facts which have been noticed above, the petitioner is entitled for the benefit of bail. The chances of tampering or threatening the victim also no longer survive.

Accordingly, the petition is allowed and the petitioner is directed to be released on bail to the satisfaction of Duty Magistrate/Illaq Magistrate, Narnaul. Needless to say that anything said herein is only for the purpose of deciding the present bail application and this Court has not opined on the merits of the case.

28.08.2020
shivani

(G.S. SANDHAWALIA)
JUDGE

Whether reasoned/speaking

Yes/No

Whether reportable

Yes/No