

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-14839-2020(O&M)

Date of Decision: 21.07.2020

Harnek Singh @ Nekku

--Petitioner

Versus

State of Punjab

--Respondent

CORAM:- HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA.

Present:- Mr. T.S. Gill, Advocate for the petitioner.

Mr. Balbir Singh Sewak, Addl. A.G., Punjab.

TEJINDER SINGH DHINDSA.J (Oral)

Matter has been taken up through video conferencing via Webex facility in the light of the Pandemic Covid-19 situation and as per instructions.

CRM-15046-2020

Application is allowed as prayed for.

Copy of the final investigation report/challan is taken on record as Annexure P-4.

Main Petition

Instant petition has been filed under Section 439 Cr.P.C seeking benefit of regular bail to the petitioner in case FIR No.0144 dated 30.12.2019 registered under Section 354 I.P.C and sections 8,12 of POCSO Act (later on sections 342 and 354-A I.P.C were added) at Police Station, Mullanpur, District SAS Nagar.

Counsel for the parties have been heard.

FIR came to be registered on the statement of Kulwinder Kaur.

Complainant stated that she was a housewife and her husband had expired 8

years back. Precise allegations are with regard to minor daughter of the complainant (name withheld) aged about 11 years. It is alleged that on 30.12.2019 at about 11 A.M while the prosecutrix/minor was going to the village shop to purchase certain household articles the present petitioner/accused enticed her and took her inside his rented room and bolted the door. It is alleged that the petitioner attempted to do obscene activities with the prosecutrix. The prosecutrix having raised an alarm certain residents of the village came on the spot and rescued her.

Petitioner was arrested on 31.12.2019.

Investigation in the case is complete and the challan already stands presented. Learned State counsel has informed the Court that even though, 16 prosecution witnesses have been cited but none has been examined till date.

Even though, learned State counsel has vehemently opposed the prayer for bail by submitting that the accused has committed a heinous offence and the prosecutrix involved is only 11 years old, yet, perusal of the challan document at Annexure P-4 would reveal that the complainant had refused to have the medical examination of the prosecutrix conducted. That apart, as per initial version of the complainant as also the challan document the prosecutrix had been rescued by villagers, who had reached at the spot upon hue and cry having been raised and after forcibly getting the door opened.

Strangely and as per admission of learned State counsel none of the villagers who had rescued the prosecutrix are part of the 16 prosecution witnesses cited.

Petitioner has already suffered incarceration in excess of 6 months.

Trial is at the very initial stage and would take time to conclude and particularly keeping in view the current COVID-19 situation.

The contention raised on behalf of the petitioner as regards false implication in the light of the observations already made by this Court cannot be stated to be without merit.

In the totality of circumstances, petitioner is held entitled to the benefit of bail.

Petitioner be enlarged on bail subject to satisfaction of the Trial Court/Duty Magistrate, S.A.S Nagar.

It is, however, clarified that the observations made by this Court in the instant order are confined only as regards considering the prayer of the petitioner for bail and would have no bearing on the merits of the case.

Disposed of.

(TEJINDER SINGH DHINDSA)
JUDGE

21.07.2020

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Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No