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

**CRM-M-15625-2020 (O&M)
Date of decision-29.06.2020**

Gobind Singh @ Akram Rahi

...Petitioner

Vs.

State of Punjab and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Piyush Sharma, Advocate for the applicant-petitioner.

Ms. Monika Jalota, DAG, Punjab.

Mr. Kamal Narula, Advocate for the complainant.

MANOJ BAJAJ, J.

CRM-14193-2020

This application has been filed under Section 482 Cr.P.C for adding Section 66 E of Information Technology Act, 2000 in the prayer clause of the main petition.

Notice in the application.

At the asking of the Court, Ms. Monika Jalota, DAG, Punjab accepts notice on behalf of the respondent-State and does not oppose the prayer made in the application.

For the reasons mentioned in the application, same is allowed and offence under Section 66-E of Information Technology Act, 2020 be added in the head note and the prayer clause of the main petition. Let the

necessary correction be reflected at the appropriate places in the main petition.

CRM disposed off.

Main case

Petitioner has filed this petition under Section 438 Cr.P.C for grant of anticipatory bail in case FIR No.39 dated 16.04.2020 and Sections 354-C, 354-D of Indian Penal Code, 1860 and Section 12 of Protection of Children from Sexual Offences Act, 2012 (in short POCSO Act) registered at Police Station Sadar Jalalabad, District Fazilka.

The FIR was registered on the written complaint made by Gurdev Singh son of Jaswant Singh wherein it was alleged that on 12.04.2020 at about 2.40 P.M, when his 11 years old daughter was taking bath in bathroom, which has no roof, Gobind Singh @ Akram Rahi (petitioner) started making a video. Suddenly when complainant's daughter saw mobile phone, she raised noise and Gobind Singh ran away from the place. Victim's father being handicapped person could not chase the accused. The complainant called his brothers and they contacted the family of accused. Harmeet Singh, brother of complainant called Gurmukh Singh, brother of accused and apprised him about the incident. Thereafter, Gurmukh brought the phone but accused had deleted the video, however, the video was retrieved from the back-up data. Complainant suspected that the said mobile phone may have been containing some other obscene contents. On these broad allegations, the above FIR was registered.

Learned counsel for the petitioner contends that no offence

punishable under Protection of Children from Sexual Offences Act, 2012 would be made out as the alleged act would not fall within the definition of sexual harassment. He submits that the custodial interrogation of the petitioner may not be necessary. He has further relied upon the order passed by this Court on 18.06.2020 to contend that this Court noticed the age of the petitioner and suggested the petitioner to do community service for the wrong committed on an innocent girl child. Learned counsel for the petitioner has referred to the definition of Section 11-Sexual Harassment, reproduced in para 3 of the petition to contend that the allegations contained in the present FIR do not fall in any of the clauses and therefore, he deserves the concession of anticipatory bail. It is also argued by learned counsel that there is delay of two days in lodging the FIR.

On the other hand, the prayer is opposed by learned State counsel who has contended that when the petitioner was caught by the handicapped father of the victim-girl, he ran away from the place of occurrence and deleted the recorded video. She has further submitted on instructions from SI Chander Shekhar that the said video was retrieved from the back-up data and in fact the petitioner had committed the alleged crime. According to her, the accused is 27 years old and it was wrongly projected before this Court that the petitioner is a teenager.

At this stage, learned counsel for the petitioner submits that the phone of the petitioner was returned by the Police and nothing was found in the phone. He submits that it is the case of the prosecution that the phone was locked by the petitioner and therefore, it could not be opened.

After hearing learned counsel for the parties, this Court finds that the allegations contained in the FIR are serious and the mobile phone used in the crime has already been examined by the Police where-from the relevant material has been collected. The argument of the learned counsel based upon the last order of this Court is of no help as the case is under investigation and the trial is yet to commence, therefore, the suggestion of community service is not at all significant. At the same time, since the investigation is pending, it will not be appropriate for this Court to make an observation that whether the alleged act falls in the definition of sexual harassment as contained in Section 11 of POCSO Act. This aspect would be seen after completion of the investigation.

Considering the nature of the allegations, this Court is not inclined to extend any benefit to the petitioner at this stage as the custodial interrogation of the petitioner may be necessary in the given facts.

Resultantly, petition fails and is dismissed.

(MANOJ BAJAJ)
JUDGE

29.06.2020
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Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No