

CRM-M-15865-2020 (O&M)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

(PROCEEDINGS THROUGH V.C.)

CRM-M-15865-2020 (O&M)

Date of Decision: September 17<sup>th</sup>, 2020

Sonu Nimal

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present Mr. Devinder Arya, Advocate  
for the petitioner.

Ms. Tanisha Peshawaria, DAG, Haryana.

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AUGUSTINE GEORGE MASIH, J. (ORAL)

CRM-23164-2020

Annexures P-2 to P-4 are taken on record, subject to all just  
exceptions.

Application stands disposed of.

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Petitioner has approached this Court for grant of regular bail  
by filing this petition under Section 439 of the Code of Criminal  
Procedure, 1973, in FIR No.520, dated 14.10.2019, registered at Police  
Station City Mahendergarh, District Mahendergarh, under Section 506 of  
the Indian Penal Code and Section 6 of the POCSO Act.

In compliance with the order dated 26.08.2020 passed by this Court, an additional affidavit dated 14.09.2020 of the Superintendent of Police, Narnaul, District Mahendergarh, has been filed, which is taken on record.

It is the contention of the learned counsel for the petitioner that the petitioner has been falsely implicated in the present case because of the reason that he was Incharge of the supply of Mid Day Meal material, where the mother of minor prosecutrix was working. The Mid Day Meal was being prepared by the mother of prosecutrix and therefore, when certain shortcomings were pointed out by the petitioner, false allegations have been made against him at the behest of the mother through her daughter. This, he asserts on the basis of the medical report of the prosecutrix where nothing has been found which would indicate any rape having committed by the petitioner. There is no external injury or internal injury as per the said report, which has been placed on record as Annexure R-1 with the reply filed by the State on 04.08.2020. Counsel for the petitioner contends that the petitioner is in custody since 14.10.2019 and charge has been framed on 23.07.2020 after the presentation of challan but till date, none has been examined out of total 26 witnesses cited by the prosecution. He, thus, contends that the trial is not likely to conclude in near future and the continuation of the petitioner in custody would not serve any purpose.

On the other hand, learned counsel for the State submits that

there are serious allegations against the petitioner. Specific mention has been made with regard to the act which has been done by the petitioner upon the minor prosecutrix. Apart from that, it is asserted by the learned counsel for the State that the petitioner is a Teacher and having committed such a heinous offence within the school premises is unexpected nor acceptable when he is supposed to be a protector of the students. Prayer has, thus, been made for rejection of the bail application.

I have considered the submissions made by the learned counsel for the parties and have gone through the records of the case with their assistance.

Although there are allegations against the petitioner in the FIR but the medical report of the prosecutrix does not indicate such an act as has been alleged to have been committed upon her . Nothing is mentioned in the medical report which would point a finger towards the same. That apart, petitioner is in custody for more than eleven months now, as he is in custody since 14.10.2019. The trial is not likely to proceed in near future because of the prevailing circumstances. There are 26 witnesses which have been cited by the prosecution but none has been examined till date. The trial, therefore, is likely to take some time.

In view of the peculiar circumstances of the present case, this criminal miscellaneous petition is allowed subject to the petitioner giving an undertaking at the time of submissions of his bail bonds that **he would not enter the village Khatiwas till the prosecutrix and her mother are**

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**examined by the trial Court.** Petitioner is ordered to be released on bail subject to his furnishing bail and surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate, Mahendergarh.

Any observation made herein-above shall have no bearing on the merits of the case during the trial in any manner.

September 17<sup>th</sup>, 2020  
*Harish*

(AUGUSTINE GEORGE MASIH)  
JUDGE

|                            |        |
|----------------------------|--------|
| Whether speaking/reasoned: | Yes/No |
| Whether Reportable:        | Yes/No |