

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

220

**CRM-M No.19173 of 2020
Date of decision:05.08.2020**

Mohd. Arshad

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mohd. Jameel, Advocate for the petitioner.

Ms. Bhawna Gupta, DAG, Punjab.

SUVIR SEHGAL J. (ORAL)

The Court has been convened through video conferencing due to Covid-19 pandemic.

Petitioner, Mohd. Arshad, son of Suleman, has filed this petition under Section 439 of Cr.P.C. for grant of regular bail in case FIR No.105, dated 31.08.2019 registered under Section 354 of IPC and Section 8 of Protection of Children from Sexual Offences Act, 2012, at Police Station City-II Malerkotla, District Sangrur.

As per the version of the prosecution, a statement was made by the victim, aged 13 years, that her mother is a tailor and her father is working in a shoe factory. Her mother used to send her to purchase thread roll, needle and other articles for her tailoring work from the shop of Arshad alias Kachi (present petitioner). She had been going to his

shop for the last 3 to 4 years. He used to call her inside on some pretext or the other and molest her. She did not disclose these facts to anyone due to a sense of fear and humiliation. Finally, when she refused to go to the shop, the mother went instead and in her mother's absence, the girl attempted suicide by hanging from a ceiling fan. The mother reached back in the nick of time and rescued the victim. The victim had written a suicide note before attempting suicide. The petitioner was arrested on 06.09.2019.

Counsel for the petitioner has argued that the allegations against the petitioner are false and fabricated. According to the counsel, the real story is that the victim's mother used to purchase goods from the grocery shop of the petitioner and even took some advance from him. The total amount due came to Rs.60,000/- and when the petitioner asked the victim's mother for the same, she fought with the petitioner and then got the present FIR lodged. According to the counsel, the victim was tutored to give a statement under Section 164 Cr.P.C. Counsel argued that there are loopholes in the story of the complainant.

Opposing the petition, learned State counsel, upon instructions from ASI Daljit Singh submitted that minor victim had specifically named the petitioner in the FIR and in her statement before the Magistrate. The conduct of the petitioner had driven the victim to this extreme step. As per the instructions of the State counsel, the evidence has already been recorded and the trial is at the stage of arguments. State counsel has filed the custody certificate dated 04.08.2020, which is taken on record.

I have considered the rival submissions.

Facts stated by the young girl in her complaint are unsettling. The allegations are extremely grave and disturbing. The victim is a 13 years old child of a vulnerable age, who has been tormented by the petitioner for more than three years. She suffered in silence lest her family's name is tarnished. Before attempting suicide, she wrote a suicide note, which has been read over by the learned State counsel. Her suicide note explicitly names the petitioner as responsible for forcing her to take the drastic step. Facts clearly show that possibility of the accused being involved in the incident cannot be ruled out.

Furthermore, State counsel has pointed out that the evidence has already been concluded and the trial is at the stage of arguments. Since the case is at its fag end, this court is of the view that the petitioner is not entitled to be enlarged on bail. Petition is accordingly, dismissed.

It is clarified that any observation made hereinabove shall not be construed to be an expression on the merits of the case.

05.08.2020

pooja saini

**(SUVIR SEHGAL)
JUDGE**

Whether Speaking/Reasoned : Yes/No

Whether Reportable : Yes/No