

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

Criminal Misc. No.M-19356 of 2020

Date of Decision: 11.11.2020

Rajinder Kumar

...Petitioner (s)

Versus

State of Haryana

...Respondent(s)

CORAM:- HON'BLE MR. JUSTICE HARI PAL VERMA

Present:- Mr. Ashish Grewal, Advocate
for the petitioner.

Mr. Bhupender Singh, DAG, Haryana.

HARI PAL VERMA, J. (Oral)

The matter has been taken up for hearing through video conferencing due to outbreak of COVID-19.

Prayer in this petition filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the petitioner in FIR No.591 dated 12.10.2019 under Sections 506 IPC and Section 10 POCSO Act (Sections 6 and 18 POCSO Act being deleted and Section 10 POCSO Act added later on) registered at Police Station City Yamuna Nagar, District Yamuna Nagar.

As per the case of the prosecution, on 12.10.2019, the complainant, who is mother of the victim-prosecutrix, moved a complaint to the police alleging therein that her brother-in-law (*Jeth*) is residing with his family in the upper portion of the house in which she is residing. On

20.09.2019 at about 5-00 P.M., she had gone for her work in the houses. At around 7-00 P.M., when she returned to her house, she did not find her daughter-victim present in the house. On inquiry, she came to know that the petitioner has taken her to a godown situated at some distance from her house. However, when the complainant reached at the godown so as to locate her daughter-victim, she saw that the petitioner was sitting outside in the dark and had made her daughter-complainant to sit on his private part with his clothes and was trying to commit wrong act with her. After hearing the cries of her daughter-victim, she reached there and picked her daughter-victim. The petitioner threatened her that if she disclosed about this incident to anybody, then she will be thrown out from the house and her children will be killed.

Learned counsel for the petitioner has argued that there is a delay of 22 days in reporting the matter to police and the petitioner is real uncle (*tau*) of the alleged victim and staying on the first floor of the same house in which the complainant resides with her daughters. In fact there is a dispute regarding property between the parties. There is no medical in the case and as against the 12 witnesses, 11 witnesses have already been examined. The petitioner is in custody since 19.12.2019. Since trial is not likely to be concluded early due to Covid-19 pandemic, the petitioner be released on bail.

Learned State counsel does not dispute the custody of the petitioner as well as the fact that the petitioner is real uncle (*tau*) of the victim. However, he has submitted that the allegations against the petitioner are serious in nature and the victim is 10 years old girl.

I have heard learned counsel for the parties.

The statement of the prosecutrix recorded under Section 164 CrPC has also been produced before this Court. In her statement, she has not made any allegation whether the petitioner or the victim were without clothes at the time of alleged incident. In her statement, the victim has stated that the petitioner was insisting her to sit on him and on her refusal, he was threatening that he will beat her, her mother and sisters.

In the background of the dispute pending between the parties and the fact that the petitioner is in custody since 19.12.2019, this Court deems it appropriate to release the petitioner on regular bail.

Accordingly, the present petition is allowed and the petitioner is admitted on regular bail, subject to furnishing of his bail bonds/surety bonds to the satisfaction of trial Court/Duty Magistrate.

November 11, 2020
AK

(HARI PAL VERMA)
JUDGE

Whether speaking / reasoned?

Yes / No

Whether reportable?

Yes / No