

IN THE HIGH COURT OF PUNJAB AND HARYANA
CHANDIGARH

PARVEEN KUMAR
24.08.2020 12:35
I attest to the accuracy and
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Crl. Misc. M-19991 of 2020
Date of decision: 07.08.2020

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Shunty @ Bukha

....Petitioner(s)

Versus

State of Haryana

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA

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

Ms. Tanushree Gupta, DAG, Haryana.

(Proceedings are conducted through video
conferencing as per instructions).

G.S.SANDHAWALIA, J. (Oral)

The petitioner seeks regular bail in a petition filed under Section 439 Cr.P.C. in FIR No. 102 dated 24.07.2019 under Sections 323 IPC, 8 and 12 of the POCSO Act registered at P.S. Chhachhrauli, District Yamuna Nagar.

Counsel for the petitioner has submitted that the only allegation against the petitioner is that the petitioner had beaten the victim, who is a student of the 7th class in school. The FIR has been lodged by the Head Master since the incident had taken place in school. It is submitted that as per the statement given under Section 164 Cr.P.C., the petitioner had caught the victim by arm and slapped her in the presence of her friends in the absence of the teacher and then run away. Similar is the statement as such in the Court recorded on 30.09.2019 that the petitioner had entered from the back door and slapped the victim and had run away. It is submitted that the petitioner is in custody since 24.07.2019 and the prosecution witnesses have

been examined and the case is fixed for defence evidence.

It is submitted that instead of granting bail, the Court has dismissed the same on the ground that there is harassment to the young girl and, therefore, it has to be dealt with with an iron hand. It is rightly submitted that the victim, as such, has been examined and the petitioner would be in no way now able to influence her deposition and he has also undergone a period of detention of one year. It is submitted that in such circumstances, the petitioner is entitled for the benefit of the regular bail.

Keeping in view the above circumstances and the fact that the incident is of giving a slap on the person of the victim while in school which prima facie would fall under the purview of Section 323 IPC. It would be a moot point as to whether Sections 8 and 12 of the POCSO Act would be applicable since the sexual intention as such seems to be missing on the part of the petitioner. Therefore, the petitioner would be entitled for the benefit of regular bail.

Accordingly, the petition is allowed. The petitioner be released on regular bail to the satisfaction of the Illaqua/Duty Magistrate, Yamuna Nagar at Jagadhari. Needless to say, anything said herein is only for the purposes of deciding the present bail application.

07.08.2020
shivani

(G.S. SANDHAWALIA)
JUDGE

Whether reasoned/speaking

Yes/No

Whether reportable

Yes/No