

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

206

**CRM-M-20162-2020
Date of decision: 21.09.2020**

Rajender alias Kalu

.....Petitioner

Versus

State of Haryana and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Vikas Bishnoi, Advocate
for the petitioner.

Mr. Naveen Singh Panwar, DAG, Haryana
for respondent No.1-State.

(Respondent No.2 did not appear
despite service.)

ARUN KUMAR TYAGI, J (ORAL)

(The case has been taken up for hearing through video conferencing.)

The petitioner has filed the present (first) petition under Section 439 of the Code of Criminal Procedure, 1973 (for short, "the Cr.P.C.") for grant of regular bail in case FIR No.77 dated 28.02.2020 registered under Sections 354A(1)(IV) and 354D read with Section 34 of the Indian Penal Code, 1860 (for short, "the IPC") at Police Station Bhuna, District Fatehabad to which Section 12 of the Protection of Children from Sexual Offences Act, 2012 was added during investigation.

The above said FIR was registered on written complaint made by father of the prosecutrix to SHO Police Station Bhuna. In the complaint father of the prosecutrix alleged that his daughter and daughter of his neighbourer are studying in 8th class. Some boys

including the petitioner used to follow them at the beginning and end of the school hours and used to pass comments, play obscene songs on mobile phones and used to utter obscene words to them. On complaint of his daughter he went to complain to father of the petitioner who abused him (the complainant). Pursuant to registration of the above said FIR the police investigated the case, arrested the petitioner on 02.03.2020 and on completion of investigation charge-sheeted him.

The petitioner, who is in custody since his arrest on 02.03.2020, has filed the present petition for grant of regular bail.

The petition has been opposed by learned State counsel in terms of reply filed by way of affidavit of Ajaib Singh, HPS, Deputy Superintendent of Police, Fatehabad.

I have heard learned counsel for the petitioner and learned State counsel and gone through the relevant record.

Learned counsel for the petitioner has submitted that the petitioner has been falsely implicated in the case. Father of the prosecutrix had taken loan from father of the petitioner and when father of the petitioner demanded back the same, father of the prosecutrix got the present case registered. Challan has already been filed and trial is likely to take long time due to restrictions imposed to prevent the spread of infection of Covid-19. No useful purpose will be served by further detention of the petitioner in custody during trial. Therefore, the petitioner may be granted regular bail.

On the other hand, learned State counsel has argued that in view of the nature of accusation and gravity of the offences committed, the petitioner does not deserve grant of regular bail. Therefore, the

petition may be dismissed.

In view of the facts and circumstances of the case, nature of accusation and evidence against the petitioner and the fact that the trial is likely to take long time due to restrictions imposed to prevent the spread of Covid-19 and also that presence of the petitioner during trial can be secured otherwise also than only by detention in custody which not being punitive will not serve any purpose, but without commenting on the merits of the case, I am inclined to extend the concession of regular bail to the petitioner.

In view of the above, the petition is allowed and the petitioner is ordered to be released on regular bail on furnishing of personal and surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

However, the petitioner is granted regular bail subject to the condition that he shall not commit any similar offence and shall not intimidate the prosecutrix or any member of her family in any manner whatsoever after his release on bail and in case of commission of any similar offence or intimidation of the prosecutrix or any member of her family by him, his bail in the present case shall also be liable to be cancelled on application to be filed by the prosecution in this regard.

21.09.2020

Vinay

(ARUN KUMAR TYAGI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No