

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

212

**CRM-M-23701-2020
Decided on : 25.08.2020**

Jitender Singh @ Kala

... Petitioner

Versus

State of Haryana

... Respondent

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

Present: Mr. Sandeep Gahlawat, Advocate for the petitioner (s).

Mr. Anant Kataria, DAG, Haryana.

(The proceedings are being conducted through
video conferencing, as per instructions.)

G.S. Sandhawalia, J. (Oral)

In the present petition filed under Section 439 Cr.P.C., the petitioner seeks grant of regular bail in FIR No.33 dated 22.03.2019 under Sections 6, 10 & 18 of the POSCO Act, 2012 registered at Police Station Alewa, District Jind (Annexure P-1).

The FIR was lodged by the Bhim Singh father of the male victim who is aged about 11 years. The incident was stated to be of 18.03.2019, which happened on the festival of Holi. The petitioner is stated to have taken the victim behind the dung house (bitoda) and tore off his jeans and tried to commit an unnatural offence. The victim had rescued himself and come home running and narrated the incident to his mother. The complainant on his return from out of station having been told by his wife the story, therefore, requested that the legal action be taken against the said accused, which led to the lodging of the present FIR on 22.03.2019.

The second regular bail petition was dismissed by the Special

Court on 18.06.2020 (Annexure P-9) on the ground that earlier the bail application had been dismissed on 14.10.2019 (Annexure P-7) and 28.01.2020 (Annexure P-8).

A perusal of the said orders would go on to show that the petitioner is in custody since 11.04.2019 and bail has been denied, though it was noticed that the victim and his parents have not supported the prosecution case. But since there were serious allegations in the FIR that the petitioner had committed aggravated penetrative sexual assault upon the minor victim, he was held not entitled for the benefit of bail.

Counsel has taken the Court through the statements of the father Bhim Singh who appeared as PW-1 before the Trial Court, wherein he has stated that some unknown person had taken his son and tried to commit wrong act with him and thus he had been declared hostile and it had been put to him that he had given the application also, wherein it has been recorded otherwise.

Similar was the version of the mother of the child who appeared as PW-2. The victim was examined as PW-3, wherein accused has been mentioned as unknown person who fled away. The victim also stated that the accused was his neighbour.

PW-7 Dr. Pankaj, Medical Officer was also examined, who in his cross-examination submitted that no external injuries were found on the anus of the victim. The report of the Forensic Science Laboratory has also been attached as Annexure P-6, which also shows that the presence of semen was not available on the swab.

Keeping in view the above circumstances as such, this Court *prima facie* is of the opinion that the prosecution has not been able to get the necessary evidence as such against the petitioner who is in custody since 12.04.2019. Thus, he is entitled for the benefit of regular bail as no useful purpose will be served by keeping him in further detention.

Accordingly, the present petition is allowed. The petitioner be released on bail on his furnishing bail bonds/surety bonds to the satisfaction of the Chief Judicial Magistrate/Duty Magistrate, Jind.

It is made clear that the observations made herein are only for the purpose of granting bail and keeping in view the period of detention he has undergone. This Court has not commented upon the merits of the case.

AUGUST 25, 2020
Naveen

(G.S. SANDHAWALIA)
JUDGE

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