

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

**CRM No.23739 of 2020 IN/AND  
CRM-M No.24070 of 2020 (O&M)  
Decided on: 30.09.2020**

Jahed

....Petitioner

Versus

State of Haryana

....Respondent

**CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN**

**Present :** Ms. Kanu Sharma, Advocate  
for the petitioner.

Mr. Sumit Jain, Addl. A.G., Haryana.

**ARVIND SINGH SANGWAN, J. (Oral)**

**CRM No.23739 of 2020**

Prayer in this application is for preponing the date fixed in  
the main petition.

Heard.

For the reasons stated in the application, the same is  
allowed and the date fixed in the main petition is preponed for today.

**CRM-M No.24070 of 2020**

Prayer in this petition is for grant of regular bail to the  
petitioner under Section 439 of the Code of Criminal Procedure (in  
short 'Cr.P.C.') in FIR No.164 dated 05.12.2019, for offence punishable  
under Sections 346/216 of the Indian Penal Code, 1860 (in short 'IPC')  
and 8 of the Protection of Children from Sexual Offences Act, 2012,  
registered at Police Station Ram Nagar, Karnal, District Karnal.

Counsel for the petitioner has argued that the FIR was

initially registered at the instance of Gurvinder Singh that his minor niece ('T' name not disclosed) is missing. Later on, when the girl was recovered, her statement under Section 164Cr.P.C., was recorded in which she has stated that she has left the home with her parental aunt (Chachi) and has gone to Himachal Pradesh. It is further stated that no one has committed any wrong with her and she wanted to go back to her home. Counsel for the petitioner has also submitted that two of the co-accused, who were initially arrested by the police, namely Waseem was granted the concession of regular bail on 31.12.2019 and another co-accused namely Rahish was granted the concession of regular bail vide order dated 11.02.2020.

Counsel for the petitioner has further submitted that there are no allegation of rape and as per the MLR, which is produced on record today by counsel for the State, it is stated *“history of attempt to do sexual assault 20 days ago; the boy tried to remove salwar but have not done intercourse.”* Counsel for the petitioner has also submitted that the MLR further reveals that there is no history of penetration by any object or by penis. It is further submitted that the petitioner is in custody since 27.12.2019 and the trial is not moving due to COVID-19 situation and even some compromise has been effected between the parties.

Counsel for the State, on the basis of the MLR, could not dispute the factual position that it was a case of attempt to commit sexual assault and as to why Section 8 of the POCSO Act, was added. It is also not disputed that in the statement recorded under Section 164 Cr.P.C., the victim has stated that no one has committed any wrong with

her.

Counsel for the State has further submitted that the petitioner is not involved in any other case.

Without commenting anything on merits of the case, considering the fact that the petitioner is in custody since 27.12.2019; challan stands presented; no PW has been examined so far and after going through the contents of the MLR and the statement recorded under Section 164 Cr.P.C. and also in view of the fact that the conclusion of the trial will take long time due to COVID-19 situation, this petition is allowed and the petitioner is directed to be released on bail subject to his furnishing bail/surety bonds to the satisfaction of the trial Court/Illaqa Magistrate/Duty Magistrate.

However, it will be open for the prosecution to apply for cancellation of bail of the petitioner, in case he is found involved in any other case or misusing the concession of bail, in any manner.

30.09.2020

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(ARVIND SINGH SANGWAN)

JUDGE

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