

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

CRM-M-25075-2020

Date of Decision: 21.09.2020

Sunil @ Kala

.. Petitioner

Vs.

State of Haryana

..Respondent

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Gaurav Mohunta, Advocate for the petitioner.
Kanwar Sanjiv Kumar, AAG, Haryana.

...

Manoj Bajaj, J. (Oral)

Petitioner has filed this petition under Section 439 Cr.P.C for grant of regular bail, pending trial in case FIR No.49 dated 25.04.2020 registered under Sections 147, 148, 149, 323, 341, 452 and 506 IPC, 1860 at Police Station Alewa, District Jind, Haryana (Annexure P-1) and under Section 325 IPC read with Section 34 IPC, Section 3(1)(w)(i) Schedule Castes and Schedule Tribes (Prevention of Atrocities) Act, 1989 and Section 8 Protection of Children from Sexual Offence Act, 2012 added subsequently in Challan dated 25.07.2020 (Anneuxre P-2). The petitioner is in custody since his arrest on 12.06.2020.

The FIR was registered on the basis of complaint given by Phoolpati and the allegations as noticed by the Addl. Sessions Judge, Fast Track, Special Court, POCSO, Jind in the order dated 14.08.2020 are as under:

“The prosecution case was registered on the complaint of complainant Phoolpati to the effect that she is having three sons and two daughters. On 17.04.2020, her elder son Ram Mehar heard a noise of girl and her son went there and returned back to their house. After that came to know that girl was belonged to S.C. family. Applicant-accused quarreled with Ram Mehar and gave fist blow and kicks and Ram Mehar came back in the house. After sometime, Satta @ Satte Singh, Kitabo @ Gugi, Khazani, Suman wife of Jai Bhagwan, Satwinder and Neelam armed with lathies and Sunil @ Kala (applicant-accused) armed with gandasi came in their house. Satwinder gave blow of lathi on left arm of complainant and Sunil @ Kala gave blow of gandasi from its reverse side on left knee of complainant.

Remaining accused gave fist blow and kicks to Ram Mehar. They shouted for help and after hearing their cries, accused persons fled away from the spot with their respective weapons and also threatened to kill them.”

Learned counsel for the petitioner contends that the accused/petitioner was allegedly teasing the girl and hearing the screams of the girl, the son of the complainant came out in the street where he had a fight with the petitioner. According to him later on, on the same day, the petitioner along with his accomplices caused injuries to complainant Phoolpati and the petitioner had allegedly given gandasi blow on her knee. It is pointed out that as per the MLR of the complainant, (Annexure P-3), no injury was suffered by her on left knee and the sole injury suffered on the wrist was attributed to co-accused Satwinder. He submits that the offences punishable under Section 8 POCSO Act and Sections 3 and 4 Schedule Castes and Schedule Tribes (Prevention of Atrocities) Act were added subsequently. He submits that the victim in her statement (Annexure P-6) recorded on 19.04.2020 before Women Police Station Jind specifically stated that no wrong act was committed upon her. Learned counsel contends that the statement of the girl under Section 164 Cr.P.C. (Annexure P-11) is at material variance in respect of the offence under POCSO Act. The attention of the Court is invited to Annexure P-12, to contend that during her medical examination, she refused for the same on the ground that no wrong act was committed upon her. He submits that the investigation of the case is complete and, therefore, prays for bail during the pendency of the trial.

On the other hand, learned State counsel assisted by Sanjay Kumar Inspector/SHO has opposed the prayer on the ground that the petitioner was chasing the girl in the street and hearing her cries, the son of the complainant came out. According to him, the petitioner again returned

to the house of the complainant along with other assailants and caused injuries upon the complainant. However, it is not disputed by him that the investigation of the case is complete and the final report stands filed. He states that the case is yet to be committed to the Court of Sessions for trial, and the same is fixed for 25.11.2020.

Considering the above background, this Court does not find any reason to decline the prayer of the petitioner as the trial is likely to consume considerable time, in the wake of outbreak of global pandemic, namely, COVID-19 in the region as certain restrictions have been imposed by State Government and District Administration in order to curb its spread. The petitioner after his arrest on 12.06.2020 is presently confined in judicial custody, therefore, his further detention behind the bars may not be justified.

Resultantly, without meaning any expression of opinion on the merits of the case, it is ordered that the petitioner be released on regular bail in the above case, subject to his furnishing requisite bail bonds/surety bonds to the satisfaction of the trial Court/Duty Magistrate Jind.

The petition is allowed.

21.09.2020
Jasmine Kaur

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No