

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

215

**CRM-M-26096-2020
Decided on : 29.09.2020**

Himanshu Ranjan

... Petitioner(s)

Versus

State of Punjab

... Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

PRESENT: Mr. Vishva Nath Sharma, Advocate,
for the petitioner(s).

Ms. Samina Dhir, DAG, Punjab
assisted by SI Manjinder Kaur.

MANJARI NEHRU KAUL, J. (Oral)

Due to the outbreak of pandemic COVID-19, the instant case is being taken up for hearing through video conferencing.

This is the third petition filed under Section 439 Cr.P.C. for grant of regular bail in case FIR No. 75, dated 29.04.2019, under Section 354 IPC (Section 354-A IPC added later on) and Sections 7 & 8 of the Protection of Children from Sexual Offences Act, 2012 (in short 'the POCSO Act, 2012'), registered at Police Station Punjab Agriculture University (PAU), Ludhiana.

It would be pertinent to notice that the previous petition filed by the petitioner for grant of regular bail was dismissed as withdrawn only on 21st July, 2020.

Learned counsel for the petitioner *inter alia* contends that the petitioner has been in custody since 08th August, 2019 and there is no likelihood of the trial concluding in the near future, as the recording of the prosecution evidence has not yet commenced before the trial court. He

further contends that subsequent to the registration of the FIR in question, the matter stands compromised between the petitioner and the complainant (mother of the 14 year old victim) vide compromise-deed (Annexure P-2). Still further it has been contended that the FIR in question was registered on the basis of false and concocted allegations by the complainant at the behest of the School Management where the petitioner was teaching and the victim studying, as the School Management was averse to the philanthropic activities of the petitioner. In support of his submissions, learned counsel for the petitioner has placed reliance upon **Vasudeva @ Kalu Vs. State of M.P. Through the P.S. Chalgaoon Makhan, District Khandwa (M.P.) 2017(1) JabLJ 304, Criminal Bail application No. 234 of 2020**, titled as, **“Dyaneshwar Trimbak Navghare Vs. The State of Maharashtra”**, decided on 28th February, 2020, and the Apex Courts in cases i.e. **Suo Motu Writ Petition (C) No. 1/2020**, decided on 23.03.2020, **State of Madhya Pradesh Vs. Laxmi Narayan and others 2019(2) R.C.R. (Criminal) 255** and **Narinder Singh and others Vs. State of Punjab and another 2014(2) R.C.R. (Criminal) 482**.

Per contra, learned State counsel while opposing the submissions and prayer of the learned counsel for the petitioner, has submitted that there are serious allegations levelled against the petitioner in the FIR in question of indulging in inappropriate behaviour with his student i.e. the victim.

Heard.

A perusal of the FIR reveals that the petitioner was the teacher of the victim in VRTC Blind School. *Prima facie* the petitioner had been indulging in inappropriate behaviour and trying to outrage the modesty of

the victim. The victim had been resisting and protesting against the same, however, since the petitioner did not desist, the victim's mother filed a complaint, on the basis of which the FIR in question was registered. *Prima facie* it cannot be digested that a parent and that too of a 14 year old girl would have planted a false case on the petitioner just to please the School Management and thereby put the reputation of her daughter at stake.

Learned counsel for the petitioner has laid a great deal of stress on the compromise (Annexure P-2) stated to have been effected between the petitioner and the complainant. However, the same would not come to the rescue of the petitioner. It would be relevant to reproduce certain extracts of the said compromise, which are as under:-

- “i) That all the claims of the parties have been settled forever.*
- ii) In view of the compromise the party of the Ist part has no objection in case the present FIR is cancelled/quashed by the competent court of law and second party be discharged. The Party of the Ist part undertakes to make necessary statements for the quashing/cancellation of the said FIR before any authority or before the Hon'ble High Court of Punjab & Haryana at Chandigarh or before the lower court.”*

This Court, on a perusal of the terms of the compromise reproduced hereinabove, fails to understand as to what is implied by settlement of all claims. It indeed raises a big question mark and a serious doubt as to under what circumstances, the complainant agreed to effect the compromise or in the alternative what was the allurements given to her for

effecting the compromise. Even otherwise, the compromise has not been effected with the victim of assault, but with the mother of the victim. A Court cannot take into account any compromise effected in a non-cognizable offence and that too for the offences for which the petitioner has been charged with, while the trial is still pending. An offence involving moral turpitude cannot be compromised between an accused and the complainant, who is not the victim of assault. The affected party is the 14 year old girl and it is she who is the victim of assault.

In the circumstances and keeping in view the nature of allegations levelled against the petitioner, who is none other than the teacher of the victim, he does not deserve the concession of regular bail. Accordingly, the instant petition stands dismissed. However, anything observed hereinabove shall not be construed as an expression of opinion on the merits of the case.

(MANJARI NEHRU KAUL)
JUDGE

September 29, 2020

J.Ram

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No