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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M No.33345 of 2020 (O&M)

Decided on: 15.12.2020

Mahesh

....Petitioner

Versus

State of Haryana and another

....Respondents

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. Shakti Mehta, Advocate
for the petitioner.

Mr. Deepak Kumar Grewal, DAG, Haryana.

Mr. Satvir Singh, Advocate
for respondent No.2.

ARVIND SINGH SANGWAN, J. (Oral)

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.0054 dated 01.03.2020, for offence punishable under Sections 450, 506 of the Indian Penal Code, 1860 (in short 'IPC') and 6 of the POCSO Act, 2012 registered at Women Police Station, District Faridabad.

Counsel for the petitioner has argued that the FIR was registered on 01.03.2020 with the allegations that the victim ('A' name not disclosed) aged about 11 years is residing adjoining the house of the petitioner. She has further stated that he has forcibly put his private part in her mouth. She narrated the incident to her mother and then the FIR was registered. Counsel for the petitioner has further submitted that immediately on 16.03.2020, the victim, her father and mother had

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sworn an affidavit that they are having a property dispute as the petitioner – Mahesh is the son of the real brother of the father of the victim and both the parents of the victim are satisfied that no such incident has ever happened. Counsel for the petitioner has relied upon the affidavits (Annexures P3 to P5). It is further submitted that before the Additional Sessions Judge/Fast-track Court, the affidavits were duly relied upon and counsel for the victim/complainant/parents had appeared and has acknowledged the same. It is also submitted that the petitioner is in custody since 01.03.2020, challan stands already presented, due to COVID-19 situation, the conclusion of the trial will take some time and in view of the affidavit of the parents of the victim and her parents, there is no possibility for the petitioner to tamper with the prosecution evidence.

Counsel for the State has filed the affidavit of the Assistant Commissioner of Police (Crime against Women), Faridabad, in which it is stated that the prosecutrix is aged about 11 years and as per the doctors opinion, it is opined that possibility of sexual assault cannot be ruled out. However, the affidavit is silent about the compromise between the parties.

Without commenting anything on merits of the case, considering the fact that the petitioner and the family members of the victim are closely related; they have sworn an affidavit that in fact, they have a property dispute and no such incident has taken place; the custodial interrogation of the petitioner is not required; till date no prosecution witness has been examined before the trial Court and the conclusion of the trial will take some time due to COVID-19 situation,

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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.

(ARVIND SINGH SANGWAN)
JUDGE

15.12.2020

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Whether speaking/reasoned

Yes/No

Whether reportable:

Yes/No