

CRM-M No.35325 of 2020 (O&M)
Date of Decision: 05.11.2020
(Heard through Video-Conferencing)

Kuldeep Nain **...Petitioner**

Vs.

State of Haryana **...Respondent**

Coram: Hon'ble Ms. Justice Ritu Bahri

Present: Mr. Kunal Dawar, Advocate
for the petitioner.

Ms. Sheenu Sura, Deputy Advocate General, Haryana.

Ms. Tanika Goyal, Advocate
for the complainant.

Ritu Bahri, J. (Oral)

The petitioner, who is in custody since 17.09.2020, is seeking regular bail in FIR No.302 dated 17.09.2020 registered under Sections 4 of POCSO Act, 2012, Section 506 IPC, 1860, at Police Station Saran, District Faridabad, Haryana.

Learned counsel for the petitioner contends that the incident took place 15 months before registration of the FIR. The victim is a minor boy that is why POCSO Act was added. He further contends that the injury reflected on the wrist of the boy, cannot be taken to be an evidence that he was injured by the petitioner after 15 months. There is no explanation as to why 15 months time was taken to get the FIR registered if the injury was grievous on the wrist of the child, who was 17 years old at the time of the incident. He further contends that the complainant had given affidavits

before the trial Court, however, these affidavits were not considered for granting bail as the offence against a minor child was grievous in nature. The minor had given a statement under Section 164 Cr.P.C. with respect to the incident. He further submits that there is no recovery allegations that he had clicked the photographs of the victim and threatened him. However, in the challan, no photographs have been placed on record.

Learned State counsel informs that in the challan, there is no photograph. As per the statement given by the victim, these photographs were deleted from the phone.

Counsel for the complainant has also put in appearance and submits that due to some mistake, the name of the petitioner has wrongly been mentioned.

Without commenting on the merits of the case and keeping in view the fact that the FIR was got registered after a delay of 15 months of the incident and the petitioner is in judicial custody since 17.09.2020, the present petition is allowed. The petitioner is ordered to be released on bail subject to his furnishing bail bonds/surety to the satisfaction of the Trial Court/Duty Magistrate, concerned.

05.11.2020
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(RITU BAHRI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No