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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M No.41462 of 2020 (O&M)

Decided on: 15.12.2020

Nikesh

....Petitioner

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. Rakesh Gupta, Advocate
for the petitioner.

Mr. Deepak Kumar Grewal, DAG, Haryana.

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.306 dated 07.07.2019, for offence punishable under Sections 376(2) of the Indian Penal Code, 1860 (in short 'IPC') and 4/6 of the Protection of Children from Sexual Offences Act, 2012 registered at Police Station Gannaur, District Sonapat.

Counsel for the petitioner has submitted that the petitioner is in custody since 08.07.2019 and the allegations in the FIR, registered at the instance of the complainant, are that on the date of incident, the petitioner has assaulted his minor daughter with intention of sexual assault. It is further submitted that while appearing as PW-1, the complainant has not supported the prosecution version as it is stated that the petitioner did not assault her daughter. Counsel for the petitioner has also argued that in the cross-examination by the Public Prosecutor, he has not supported the case. It is also submitted that even

CASE HEARD THROUGH VIDEO CONFERENCING

the statement of the victim has been recorded, who has also not supported the prosecution case. Counsel for the petitioner has, thus, argued that there is no possibility for the petitioner to tamper with the prosecution evidence.

Counsel for the State, on instructions from the Investigating Officer, has not disputed the factual position but opposed the prayer for bail on the ground that in the initial statement of the victim, the allegations were made against the petitioner.

Without commenting anything on merits of the case, considering the fact that the petitioner is in custody for the last about 01 year and 05 months; the custodial interrogation of the petitioner is not required; the victim and her father have not supported the prosecution version and the conclusion of the trial will take some 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/Illaq 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

yakub

Whether speaking/reasoned

Yes/No

Whether reportable:

Yes/No