

CRM-M-41991 of 2020

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

CRM-M-41991 of 2020 (O&M)

Date of decision:18.12.2020

Sumit

... Petitioner

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Ms. Sharmila Sharma, Advocate
for the petitioner.

Mr.Rajiv Sidhu, Deputy Advocate General, Haryana
for the respondent-State.

SUVIR SEHGAL J.

The hearing of this petition has been taken up through video conferencing on account of outbreak of coronavirus (Covid-19) pandemic.

CRM No.30500 of 2020

For the reasons given in the application, same is allowed. The filing of the certified copy of the vernacular of FIR is exempted.

CRM-M-41991 of 2020

This is the second petition under Section 439 of the Code of Criminal Procedure seeking grant of regular bail to the petitioner in case FIR No.187 dated 27.04.2020 registered under Section 354 IPC and Sections 8 and 12 of the Protection of Children from Sexual Offences Act, 2012 registered at Police Station City Gohana, District Sonipat (Annexure P-1)

The above said FIR was registered on the complaint of the father of the victim wherein he stated that the accused-petitioner sexually harassed his minor daughter when she was returning home on 27.04.2020

with her younger brother. The victim reached back home crying and disclosed the incident to her family members. When her grandparents and other relations went to the house of the petitioner and confronted him, he physically assaulted the grandfather of the victim. It was further mentioned in the complaint that the petitioner's objectionable behaviour was being overlooked for the last 2 years. The statement of the girl was recorded under Section 164 Cr.P.C. on the same day, the investigation was completed and the petitioner was arrested on 28.04.2020.

Counsel for the petitioner has argued that the petitioner is innocent and has been falsely framed in the case. She submits that except for the solitary statement of the girl, there is no material against the petitioner. Her argument is that the challan has been filed and the trial is likely to take sometime due to the outbreak of the pandemic, therefore, the petitioner deserves to be released on bail.

Per contra, State Counsel upon instruction from ASI Parveen has opposed the petition and has relied upon the statement of the victim recorded before the Magistrate. He has submitted that there have been previous instances of harassment of the girl which find mention in the FIR. As per his instructions, the challan has been filed in May, 2020 and the charge is yet to be framed. He submits that since the statement of the victim is yet to be recorded, the petitioner does not deserve to be enlarged on bail.

I have considered the rival submissions of the counsel for the parties.

The victim is a young girl of 11 years of age. Specific and categorical allegations of a very serious nature have been levelled against the petitioner which have been supported by the victim in her statement

(Annexure P-2) recorded under Section 164 Cr.P.C. The relevant extract of her statement is as under:-

“Day before yesterday, I along with my brother Yash have gone to bring a book from one girl. When we were returning home, street was desolate. In the meantime, one person came and put his hand and chin on my shoulder. Then that person went away. He resides in front of our house. We come (came) back home and disclosed the incident to my mother and gave a call to police and got registered the case.”

This is not the sole incident of harassment. Perusal of the FIR shows that the petitioner has probably been harrying the young innocent girl for the last 2 years.

Hon'ble Supreme Court in '**State of Punjab V/s Gurmeet Singh (1996) 2 SCC 384** has held that the evidence of victim in cases of sexual assault is enough for the conviction of the accused and the same does not require any corroboration. The Court has placed the statement of the victim on a much higher pedestal than that of an injured witness.

Still further, the first petition for regular bail (CRM-M-25805-2020) filed by the petitioner before this Court was dismissed as withdrawn on 08.09.2020 (Annexure P-4) after arguments and the second petition has been filed within a period of less than 04 months thereafter. Challan in the case has been presented in May 2020. No change in the factual situation or circumstances has been shown. No fresh ground has been urged by the counsel for the petitioner during the course of arguments. Without there being any change in the circumstances, the second petition would be deemed to be seeking review of the earlier judgment which is not

permissible in the criminal law as has been held by the Hon'ble Supreme Court in **Hari Singh Maan Vs. Harbhajan Singh Bajwa and others (2001) 1 SCC 169; State of Madhya Pradesh Vs. Kajad 2001 SCC (Criminal) 1520 and State of Maharashtra Vs. Capt. Buddhikota Subha Rao 1989 Supl. (2) SCC 605.**

Considering the gravity of the offence, the fact that the victim is a young girl of 11 years of age and that the petitioner who is her neighbour, has allegedly been involved in incidents of harassment of the minor for the last 2 years, this Court is of the view that the petitioner is not entitled to the concession of regular bail. His petition is, accordingly, dismissed.

It is clarified that any observation made hereinabove shall not be construed to be an expression on the merits of the case.

(SUVIR SEHGAL)
JUDGE

December 18, 2020
savita

Whether Speaking/Reasoned	Yes
Whether Reportable	Yes