

233.

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

**CRM-M-40548-2019**

Date of decision: 25.02.2020

BHANU

... Petitioner

versus

STATE OF HARYANA

.... Respondent

**CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA**

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Present: Mr. Karan Vir Nanda, Advocate, for the petitioner.

Ms. Priyanka Sadar, AAG, Haryana.

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**HARI PAL VERMA, J.** (Oral)

Learned State counsel submits that statement of the prosecutrix is not available as the same is sealed and is with the trial Court and therefore, could not be produced.

Prayer in the present petition filed under Section 439 Cr.P.C. is for grant of regular bail to the petitioner in case FIR No.229 dated 21.06.2019 registered under Section 8 of POCSO Act and Sections 323, 354-B, 452, 506 of IPC at Police Station Pinjore, District Panchkula.

As per the FIR, on 20.06.2019 at about 10.30 AM, when the complainant was taking bath and her daughters were watching television, there was a knock at the door. Therefore, the elder daughter of the complainant, aged about 11 years, asked as to who was there and there was no response. The daughter of the complainant thought as there must be her uncle (*mama*) Golu on the door and, therefore, she opened the door.

However, on opening the door, the daughter of the complainant started

screaming. The complainant quickly finished her bath and came out, and she found that the petitioner has held her daughter from her back and had made her sit on his lap and his companions Naveen, Kaliya and Ravi are doing wrong acts with her daughter and were touching her private parts inappropriately.

Learned counsel for the petitioner has argued that the story of the prosecution has been seriously doubted by the Investigating Agency and the other co-accused, namely, Naveen, Kaliya and Ravi have been found innocent during the investigation. Therefore, the petitioner is entitled to be released on bail. There is no medical of the prosecutrix. Petitioner is in custody since 22.06.2019. Furthermore, the prosecutrix is not coming forward to depose in the case and on 05.02.2020, she was required to be examined in the case, but she did not appear and now the case has been adjourned to 30.03.2020. In this manner, the prosecutrix is intentionally delaying the trial for reasons best known to her.

Learned State counsel does not dispute the custody and the fact that the other co-accused have been found innocent. However, she submits that the allegations against the petitioner are serious as during investigation, it was found that the petitioner was involved in the crime.

I have heard learned counsel for the parties.

Petitioner is in custody since 22.06.2019. The other co-accused, namely, Naveen, Kaliya and Ravi have been found innocent and in this manner, the prosecution story has been doubted by the Investigating Agency. Thus, the culpability of the petitioner is yet to be established during trial.

Considering the custody of the petitioner and the fact that the prosecutrix having been granted opportunity to examine in the case, but she has not deposed in the case when the case was fixed before the trial Court on 05.02.2020 and in this manner, trial will take sufficient time, thus this Court deem it appropriate to admit the petitioner on bail.

Accordingly, the present petition is allowed and the petitioner is admitted on regular bail subject to his furnishing bail bonds/surety bonds to the satisfaction of trial Court.

It is made clear that the petitioner shall not extend any threat and shall not influence any prosecution witnesses in any manner directly or indirectly.

The observations made hereinabove shall not be construed as an expression on the merits of the case and the trial court shall decide the case on the basis of available material.

**(HARI PAL VERMA)**  
**JUDGE**

25.02.2020  
sanjeev

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|----------------------------|--------|
| Whether speaking/reasoned? | Yes/No |
| Whether reportable?        | Yes/No |