

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

-.-  
**CRM-M- 249-2021 (O&M)**  
**Date of decision : 11.01.2021**

Amrit @ Monty

.....Petitioner

Vs.

State of Haryana and Another

.....Respondents

**CORAM: HON'BLE MRS. JUSTICE ALKA SARIN**

Present: Mr. Suresh Kumar Kaushik, Advocate for the petitioner.

Ms. Dimple Jain, AAG, Haryana.

Mr. Dharamvir Sharma, Advocate  
for respondent No.2/complainant.

**ALKA SARIN, J. (ORAL)**

Heard through video conferencing.

This is a petition under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail in FIR No.264 dated 26.09.2020 under Section 363 of the Indian Penal Code, 1860 and 4 of Protection of Children from Sexual Offences Act, 2012 ('POCSO' Act for short) registered at Police Station DLF Phase III Gurugram, District Gurugram.

The FIR was got registered by the mother of the minor child who filed a complaint before the police on 26.09.2020 stating therein that she hails from village Daulatpura, District Ara, Bihar and was residing at village Nathupur, Gurugram on rent. She has four children, two sons and two daughters. Her younger daughter, namely, the minor in the present case is aged 13 years. She is a student of Class-VI and has been missing since 7:00 PM on 24.09.2020. The complainant raised a suspicion on Amrit @ Monty the present petitioner-herein of having enticed the minor daughter and taken her away. On the basis of the complaint, the present FIR was registered. During the course of investigation, the minor was recovered.

The minor underwent a medico-legal examination as well as counselling by a legal advisor. On the basis of a statement under Section 164 of the Code of Criminal Procedure, 1973, Section 4 of the POCSO Act was also added in the present case. Thereafter the custody of the minor was handed over to her parents.

Learned counsel for the petitioner would contend that the mother of the minor has since given an affidavit wherein she has stated that the petitioner did no wrong with her daughter and that she has also stated in the affidavit that she would have no objection if bail is granted.

The learned counsel for the State, on instructions from ASI Surender, has stated that the statement of the minor child was recorded under Section 164 CrPC wherein she has categorically stated that there was sexual relationship between the petitioner and the minor child. During her medico-legal examination the minor also gave a history of sexual assault by the petitioner.

Mr. Dharamvir Sharma, Advocate has put in appearance on behalf of the complainant.

I have heard learned counsel for the parties.

In the present case a minor child has been subjected to sexual assault qua which initially the mother of the minor had filed an FIR. The statement of the minor child was also got recorded under Section 164 CrPC wherein she categorically stated that there was asexual relationship between the petitioner and the minor child. The affidavit referred to by the learned counsel for the petitioner would be of no consequence inasmuch as the minor involved in a present case is a 13 years old child. Further, though the learned counsel for the petitioner has stated that the relationship between

inasmuch as keeping in view the age of the minor her consent would be of no consequence.

In view of the above, I do not deem this to be a fit case for grant of regular bail.

Accordingly, the present petition is dismissed.

It is, however, made clear that any observation made herein shall not be treated as an expression of opinion on the merits of the case.

January 11, 2021  
tripti

(ALKA SARIN)  
JUDGE

NOTE: Whether speaking/non-speaking: Yes/No  
Whether reportable: Yes/No