

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

**CRM No.M-5647 of 2021**

**Date of Decision: February 15, 2021**

Des Raj

...Petitioner

VERSUS

State of Haryana

...Respondent

**CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI**

Present: Ms.Rinky Gupta, Advocate for  
Mr.P.S.Jammu, Advocate  
for the petitioner.

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**ARCHANA PURI, J.**

Petitioner has filed this second petition under Section 439 Cr.P.C. for grant of regular bail in case FIR No.119 dated 30.05.2019 under Sections 377, 342, 506 read with Section 34 IPC, Sections 6 and 12 of POCSO Act and Section 67-A of IT Act, 2000, Police Station Sadar Dabwali, District Sirsa.

Notice of motion.

Ms.Harpreet Kaur, Asstt. Advocate General, Haryana, accepts notice on behalf of the respondent-State.

As per version of the prosecution, the victim was 11 years old 6<sup>th</sup> grade student. On 26.05.2019, one Ravinder took him at his house from the school, on the pretext of some work. Petitioner-Des Raj was already present there, who committed penetrative sexual assault upon the victim and

one of the companion namely Ravi prepared the video and accused made it viral. The petitioner also extended threat to kill the victim, if he discloses the occurrence to anyone. However, health of the victim had deteriorated after 2-3 days and thereafter, his father came to know about the incident.

During the investigation, the police got recorded the statement of the victim before the Magistrate, as well as arrested accused persons. The alleged video clip was also recovered and sent to FSL for verification and report of the same is still awaited.

Now, learned counsel for the petitioner submits that the petitioner is languishing in the jail since 31.05.2019. It is further submitted that despite the long incarceration of the petitioner, no progress has been made in the trial. Even though, challan has been presented and charges have been framed, but no witness has been examined. She also submitted that the sole intention of the complainant side is only to prolong the trial to deprive the petitioner of the concession of the regular bail. Also, it is submitted that Ravinder and Ravi, who were juveniles, have already been granted benefit of regular bail. As such, a prayer has been made for grant of regular bail to the petitioner.

On the contrary, learned State counsel has resisted the claim of bail to the petitioner, as she submits that the petitioner had committed grave and serious offence upon the child, who was 11 years old. She also submits that even though, challan has been presented and charges have been framed, but due to pandemic situation, no witness could be examined. Now, the Courts have started functioning and she assured of making an endeavour to assist the Court in recording of the witnesses at the earliest. So far as, grant

juveniles and therefore, on this account, the petitioner, as such, cannot claim parity.

As per version of the prosecution, the petitioner had committed penetrative sexual assault, who was 11 years old. Even though, challan has been presented and charges have been framed, but however, due to pandemic situation, no material witness has been examined, as yet. Even though, parity is claimed as fellow accused Ravinder and Ravi have been released on bail but however, as stated by learned State counsel, both of the fellow accused, who have been granted bail, were juveniles and precisely, on this account, parity is not attracted to the claim of the petitioner.

Considering the aforesaid circumstances and the role attributed to the petitioner, at this stage, no case is made out, for grant of regular bail to the petitioner. Consequently, the present petition is hereby dismissed.

However, learned State counsel is directed to make an endeavour to get examined material witnesses on priority, at the earliest and also, at the same time, to ensure procurement of report of FSL by making earnest efforts.

(ARCHANA PURI)  
JUDGE

February 15, 2021  
Vgulati

Whether speaking/reasoned  
Whether reportable

Yes  
Yes/No