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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

**CRM-10816-2021 in/and
CRM-M-10908 of 2021
Date of Decision: 20.04.2021**

Satish Kumar

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM:- HON'BLE MRS. JUSTICE ALKA SARIN

Present: Mr. Manoj Kumar Pundir, Advocate for the petitioner

Mr. R.S. Budhwar, Addl. A.G. Haryana

ALKA SARIN, J. :

Heard through video conferencing.

CRM-10816-2021

This is an application for correction/amendment in the heading of the main petition by incorporating 'second petition' in place of 'first petition' and in para no.17 of the main petition by mentioning the details of the earlier bail petition.

For the reasons mentioned in the application the same is allowed as prayed for, subject to just exceptions.

CRM-M-10908-2021

This is the second petition filed under Section 439 CrPC for grant of regular bail to the petitioner in case FIR No.680 dated 20.10.2020 under Sections 8, 12 of the Protection of Children from Sexual Offences Act, 2012 ('POCSO Act') [later on Sections 4, 18 of the POCSO Act and Section 26 of the Juvenile Justice (Care and Protection of Children) Act, 2015 were added] registered at Police Station City Yamuna Nagar, District

Yamuna Nagar. The first petition (CRM-M-791-2021) under Section 439 CrPC was dismissed as withdrawn on 13.01.2021.

The complaint with the Police was lodged on 20.10.2020 by Tahira Khan stating that her daughter named xxx aged 16 years is working with Kirti Bhoomi News since about two months whose editor is Satish Kumar (the petitioner). Her daughter used to leave home for work at 7.00 am every morning and has been to Kurukshetra, Karnal, Panchkula with Satish when she used to leave in the morning and return home in the evening. Around one month ago Satish wanted to take her daughter over-night to Paonta Sahib which she refused. On 18.10.2020 without telling the daughter, Satish took her to Gohana where he forced her to stay in Diamond Hotel at night. At around 10.00 pm at night Satish tried to forcibly do wrong act with her daughter and she pushed him and came down to the reception and then on the road outside. Satish followed her daughter to the road and forcibly stopped her by holding her hand but her daughter freed herself and started walking on the road. Then Satish told her daughter that he will drop her home in Yamunanagar. Her daughter reached home at about 2.00 am in the night, she was very scared and remained scared the next day also. On 20.10.2020 her daughter told everything to her brother Aftab. Then she alongwith her daughter xxx, her son Aftab and her husband Ashik went to Satish's office and confronted him about the incident but he flatly denied the same. Based upon the averments in the complaint, the FIR was registered on 20.10.2020. The petitioner was arrested on the same day.

The counsel for the petitioner has urged that the petitioner has been falsely implicated in the case. According to the counsel, the petitioner was not wanting to keep the daughter of Tahira Khan in his employment as

she was not disciplined and when he informed her parents they have made false allegations against him. Learned counsel for the petitioner has further contended that there is a delay of two days in lodging the FIR and in fact Tahira Khan and her daughter xxx have themselves not supported the version of the Police. He has drawn the attention of the Court to the statements of Tahira Khan and her daughter (Annexures P-2 and P-3) recorded during the trial where both have denied even knowing the petitioner. He has also contended that after the withdrawal of the first petition for regular bail the circumstances have changed as the investigation stands completed and statements of the main prosecution witnesses have been recorded.

The State has filed a status report dated 02.04.2021 by way of affidavit of Subhash Chand, HPS, Deputy Superintendent of Police, Yamuna Nagar. The status report discloses that the petitioner admitted his guilt in his disclosure statement and the investigations made by the Police found the allegations made by Tahira Khan to be correct. However, the status report also points out that Tahira Khan and her daughter xxx have both not supported the version of the Prosecution when their statements were recorded before the Trial Court.

I have heard counsel for the parties. The case set up against the petitioner has not been supported by the complainant (Tahira Khan) and the minor victim (xxx) in the statements made by them before the Trial Court. The petitioner is behind the bars since 20.10.2020 and there is no other case against him.

In view of the above and without commenting upon the merits of the case and considering the fact that the trial is likely to take some time

to conclude especially in view of the prevailing conditions on account of COVID-19 Pandemic and also the fact that the trial has begun and the version of the Prosecution has not been supported by the complainant and the minor victim and that no recovery is to be made from the petitioner and that the petitioner has been behind bars since 20.10.2020 and there is no other case pending against him, no useful purpose would be served by keeping the petitioner behind the bars any further. This Court, therefore, deems this to be a fit case for grant of regular bail to the petitioner. The petitioner is directed to be released on bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the Illaqa Magistrate/Duty Magistrate/Trial Court concerned.

However, the Prosecution will always be at liberty to apply for cancellation of bail in case the petitioner is found to be misusing the concession of bail in any manner.

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

Disposed off.

**(ALKA SARIN)
JUDGE**

**20th April, 2021
jk**

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO