

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

217

CRM-M-20790-2020
Date of decision: 14.01.2021

SARWAN KUMAR @ SARWAN

.....Petitioner

Versus

STATE OF HARYANA AND ANOTHER

.....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

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

Ms. Geeta Sharma, DAG, Haryana
for the respondent No.1-State.

Mr. Dharamvir Sharma, Advocate
for the respondent No.2-complainant.

ARUN KUMAR TYAGI, J (ORAL)

(The case has been taken up for hearing through video conferencing.)

The petitioner has filed the present (first) petition under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail in case FIR No. 124 dated 31.12.2019 registered under Section 6 of the Protection of Children from Sexual Offences Act, 2012 and Section 376-D of the Indian Penal Code, 1860 at Police Station Women Manesar, District Gurugram.

The petitioner being in custody since 01.01.2020 has filed the present petition for grant of regular bail.

Pursuant to supply of advance copy, learned State Counsel appeared in the case. Learned Counsel for the complainant also

appeared in the case.

In the course of the hearing of the petition, the petitioner asserted that the matter had been compromised with the prosecutrix. In this regard reliance was placed on affidavit (Annexure P-5) allegedly executed by the prosecutrix.

In compliance with order dated 13.10.2020 verification report by way of affidavit of Ms. Shakuntala, HPS, Assistant Commissioner of Police, CAW Manesar, Gurugram has been filed on behalf of the respondent No.1-State in the Registry which is taken on record.

In compliance with order dated 06.11.2020, the prosecutrix and her mother have also been examined in the case and copies of their statements recorded on 20.11.2020 have been placed on record. In her statement, the prosecutrix who claimed herself to be aged 21 years did not support the case of the prosecution.

I have heard learned Counsel for the petitioner, learned State Counsel and learned counsel for the complainant and have gone through the relevant record.

Learned counsel for the petitioner has submitted that the petitioner has been falsely implicated in the case. The prosecutrix is major as her date of birth is 23.06.1999 as per Aadhar Card and ESIC card. The petitioner did not commit any such offence as alleged and the allegations made against the petitioner are false. Whatever had happened on the date of occurrence was consensual. The prosecutrix and her mother have not supported the case of the prosecution. The petitioner is in custody since 01.01.2020. The trial is likely to take long

time due to restrictions imposed to prevent the spread of infection of Covid-19 and no useful purpose will be served by further detention of the petitioner in custody. Therefore, the petitioner may be granted regular bail.

On the other hand, learned State counsel has submitted that the prosecutrix was minor at the time of commission of the offence as her date of birth as per school record is 23.06.2003. In view of nature of accusation and gravity of offence, the petitioner does not deserve grant of regular bail. Therefore, the petition may be dismissed.

Learned counsel for the prosecutrix has submitted that the prosecutrix has no objection in grant of regular bail to the petitioner.

After hearing learned Counsel for the parties, taking into consideration the submissions made by them and in view of the facts and circumstances of the case, nature of accusation and evidence against the petitioner, statements of the prosecutrix and her mother, the period of custody and the fact that trial is likely to take long time due to restrictions imposed to prevent the spread of infection of Covid-19, but without commenting on the merits of the case, I am of the considered view that the petitioner deserves grant of regular bail.

In view of the above, the petition is allowed and the petitioner is ordered to be released on regular bail on furnishing of personal and surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

14.01.2021

Vishal

(ARUN KUMAR TYAGI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No