

CRM-M-29336-2021 (O&M)

THROUGH VIDEO CONFERENCE

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

**CRM-M-29336-2021 (O&M).
Decided on: August 4, 2021.**

Satish Kumar

.. Petitioner

VERSUS

State of Haryana

.. Respondent

*** * ***

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

*** * ***

**PRESENT Mr.Manoj Pundir, Advocate,
for the petitioner.**

Mr.Naveen Singh Panwar, DAG, Haryana.

JASGURPREET SINGH PURI, J.

The present petition has been filed under Section 439 of the Code of Criminal Procedure, seeking regular bail in FIR No.11 dated 6.1.2020, under Section 365 IPC (Sections 363 and 366-A IPC and Section 10 of the Protection of Children from Sexual Offences Act, 2021 added later on), registered at Police Station Jagadhri City, District Yamuna Nagar, Haryana.

As per the FIR lodged on the basis of complaint made by one Vinod son of Jamuna Prasad, he has stated that he has 3 children and all

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of them are girls. One of the daughters is of the age of 7 years and at about 03:00 p.m. when the other daughters had gone for tuition, the eldest daughter informed that one of the daughters has not come back and they tried their best to locate her but they could not find her. The description of the girl was given to the police and an FIR was lodged.

Learned counsel for the petitioner has submitted that the petitioner is in custody since 07.01.2021 and the investigation of the case is already complete and the girl as well as father of the girl have also been examined. He has submitted that although the minor girl has deposed against the petitioner but the father of the petitioner has deposed in favour of the petitioner. He has further submitted that there are material discrepancies between the statement of the girl made under Section 164 Cr.P.C. as well as the statement made while deposing at the time of trial as PW-3. He has submitted that no useful purpose will be served in case the petitioner is kept in custody for long and therefore, he has prayed for grant of regular bail.

On the other hand, learned State counsel has submitted that it is a case of sexual assault on a minor girl of the age of 7 years when she was taken away by the petitioner by being offered a packet of chips and thereafter, sexual assault was committed upon her. He has referred to the statement made by the girl under Section 164 Cr.P.C. which has been reproduced in the order of the learned Additional Sessions Judge while dismissing the bail application of the petitioner and has contended that the statement of the girl is very clear and thereafter, when she had deposed

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before the learned trial Court as PW-3, she has again substantiated her version. He has submitted that it cannot be presumed that minor girl of the age of 7-8 years would lie about such a thing and furthermore if there is any discrepancy between the statements made under Section 164 Cr.P.C. and the statement made before the learned trial Court as PW-3, the same can only be considered at the time of final adjudication of the case but cannot become a ground for grant of bail especially in view of the fact that girl has specifically narrated the incident despite being of the age of 7 years. He has submitted that even if the father of the girl has deposed in favour of the petitioner that cannot become a ground for grant of bail and rather would go against the petitioner because in case the petitioner is released on bail then there is every possibility that he may influence any of the remaining witness or may even flee from justice.

I have heard the learned counsel for the parties.

After perusing the statement made by the girl who is stated to be of the age of 7 years at the time of incident reproduced in the order passed by the learned Additional Sessions judge, as well as the fact that the girl has again supported the prosecution version at the time of trial as PW-3, the gravity and magnitude of the case is so high that this Court does not deem it fit and proper to grant bail to the petitioner. Furthermore, the apprehension expressed by the learned State counsel that in view of the fact that the minor girl has again reiterated her version against the petitioner at the time of trial, there is every possibility that he may tamper with evidence and may influence the remaining witnesses does carry some

weight.

Considering the totality of the circumstances of the present case, this Court does not deem it fit and proper to grant bail to the petitioner. Consequently, finding no merit in the present petition, the same is hereby dismissed.

However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is meant only for the purpose of decision of present petition.

August 4, 2021.	(JASGURPREET SINGH PURI)
raj arora	JUDGE
Whether speaking / reasoned	Yes / No
Whether reportable	Yes / No