

208.

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-32934-2020

Date of decision: 10.02.2021.

SURESH KUMAR

... Petitioner

Versus

STATE OF U.T. CHANDIGARH

.... Respondent

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr. Mandeep Singh Bains, Advocate,
for the petitioner.

Mr. Rajiv Vij, APP, UT, Chandigarh.

HARI PAL VERMA, J. (Oral)

The matter has been taken up for hearing through video conferencing due to outbreak of COVID-19.

Prayer in the present petition filed under Section 439 Cr.P.C. is for grant of regular bail to the petitioner in case FIR No.165 dated 20.08.2019 registered under Section 376 AB of IPC and Section 6 of Protection of Children from Sexual Offences Act, 2012, at Police Station Sector 11, Chandigarh, during the pendency of trial.

The present FIR was registered on a complaint made by mother of the victim wherein she has stated that her daughter, aged about 8 years, is studying in 3rd class in Government High School in Khuda Ali Sher, Chandigarh. On 21.08.2019 at about 2:45 PM, when the prosecutrix along with her classmate had gone to the washroom in the school where one person, namely, Suresh Kumar, the present petitioner, met them. The petitioner sent back her classmate in her class room and he accompanied her

daughter at the backside of isolated place of canteen of the school where he put off her panty and inserted his finger in her vagina. Later on the victim disclosed the said incident to her school teacher who further informed to the parents as well as to the police.

Counsel for the petitioner has argued that apart from the fact that the petitioner is in custody since 20.08.2019 and the challan has been presented on 12.09.2019, the prosecutrix was never subjected to medical examination and even the mother of the prosecutrix has refused to undergo such medical examination and no witness has been examined in the case.

Learned counsel appearing on behalf of UT, Chandigarh, on instructions from SI Malkit Singh, has brought to the notice of this Court that the victim has been examined in the case and she has not supported the case of the prosecution.

I have heard learned counsel for the parties.

Noticing the fact that the petitioner is in custody since 20.08.2019 and the victim having been examined in the case has not supported the case of the prosecution and the complainant, who is none else but the mother of the victim, and the prosecutrix has not come forward to undergo medical examination, this Court finds that strict culpability is yet to be established and thus, deems it appropriate to admit the petitioner on bail.

Accordingly, the present petition is allowed and the petitioner is admitted on regular bail subject to his furnishing bail bonds/surety bonds to the satisfaction of trial Court/Duty Magistrate.

It is made clear that the petitioner shall not extend any threat and shall not influence any prosecution witnesses in any manner directly or

indirectly.

The observations made hereinabove shall not be construed as an expression on the merits of the case and the trial court shall decide the case on the basis of available material.

(HARI PAL VERMA)
JUDGE

10.02.2021
sanjeev

Whether speaking/reasoned	Yes/No.
Whether Reportable:	Yes/No.