

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

CRM-M-33144-2020(O&M)

Date of decision: 18.01.2021

Pankaj Mehta

...Petitioners

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present:- Mr. Abhishek Jindal, Advocate for the petitioner.

Mr. Parveen Kumar Aggarwal, DAG Haryana.

HARNARESH SINGH GILL, J. (ORAL)

Case is taken up for hearing through video conferencing.

The petitioner has filed this petition under Section 439 of Cr.P.C. for grant of regular bail in case FIR No. 348 dated 15.09.2020 registered under Sections 354, 511, 506 and 509 IPC and Sections 10, 12, 18 of the Protection of Children from Sexual Offences (**POCSO**) Act, 2012, at Police Station Civil Lines, District Sonapat.

Learned counsel for the petitioner states that the petitioner, who is pursuing a law course, has falsely been implicated in the present case. It is further submitted that the entire version contained in the FIR does not appeal to the common prudence as the prosecutrix has alleged that the petitioner had committed sexual molestation of hers while she was sleeping with the petitioner's wife in her house. However, it is beyond common understanding

that the petitioner's wife would not raise any objection to the said acts of the petitioner and the prosecutrix would withhold such incident from her parents for a period of nearly 3 years. Even otherwise, the incident in question is alleged to have taken place in 2017, whereas the present FIR had been registered on 15.09.2020 and thus, in view of bar contained in Section 468(2)(c) Cr.P.C., the very registration of the FIR is legally untenable. It is yet further submitted that Section 10 of the POCSO Act, having been added on 21.09.2020 by the Investigating Officer, without recording any zimini in this regard, speaks volumes of his connivance with the prosecutrix to falsely implicate the petitioner.

Additionally, it is submitted that the petitioner has been in custody since 16.09.2020 and the trial would take a considerable long time to conclude and, therefore, further incarceration of the petitioner is not justified.

Copy of status report by way of affidavit of the Deputy Superintendent of Police, Head quarters, Sonipat, already filed in the Registry, is taken on record.

Learned State counsel has not disputed the fact regarding the custody period of the petitioner and points out that in the statement recorded under Section 164 Cr.P.C., the prosecutrix has corroborated the version of the prosecution.

I have heard the learned counsel for the parties.

The prosecutrix was a minor at the time of the alleged occurrence. She had explained in the FIR that her father was working at Delhi, whereas her mother was residing at Vrindavan along with her another sister. Thus, there being no family member available in the close proximity of the prosecutrix, the delay in lodging the FIR cannot be taken any benefit of

by the petitioner at this stage. Even otherwise, the petitioner has not denied his visit(s) to the house of the prosecutrix. The prosecutrix has alleged that lastly the petitioner along with his wife visited her house on 12.09.2020 and continued his obscene acts and had also extended her the threats. It could not be shown that the prosecutrix has any axe to grind in seeking the false implication of the petitioner and rather the chain of events continuing till the registration of the FIR, this Court does not find any merit in the contention of counsel for the petitioner that the very registration of the FIR is not tenable.

Therefore, I do not find any ground to grant him the concession of regular bail to the petitioner.

In view of the above, the present petition is dismissed. However, nothing stated above, shall be construed as an expression of opinion on the merits of the case.

(HARNARESH SINGH GILL)
JUDGE

18.01.2021

Mangal Singh

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No