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

CRM-M-2130-2022
Date of decision: 24.01.2022

GOLDY **...PETITIONER**

VERSUS

STATE OF HARYANA **...RESPONDENT**

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. Karamveer Singh Banyana, Advocate
for the petitioner.

Mr. Vikas Bhardwaj, AAG, Haryana.

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(The case has been taken up through video conferencing on account of Covid-19 Pandemic)

VIVEK PURI,J. (ORAL)

Custody certificate of the petitioner has been circulated through email today and the same is taken on record.

Goldy-petitioner is seeking regular bail in the case bearing FIR No. 519 dated 22.08.2021, under Sections 12 of POCSO Act, 2012 (Sections 354-D/120-B/34 IPC1860 added later on), registered at Police Station Shahabad, District Kurukshetra.

Briefly, the FIR has been registered on the basis of the statement of the father of the victim alleging that on 22.08.2021, his daughter aged about 15 years has received vulgar and obscene messages on her mobile phone which was provided by the complainant for studies during the online classes, the messages were sent from the mobile phone of the petitioner and the same were sent by Harpreet Singh,co-accused.

Learned counsel for the petitioner contends that the petitioner has been falsely implicated in the instant case and there is no allegation that he had

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sent any vulgar and obscene messages to the victim. Moreover, the co-accused Harpreet Singh who had allegedly send the vulgar and obscene messages has been released on bail. The investigation of the case is complete, the challan has already been presented and conclusion of trial is likely to take sometime.

On instructions from SI Paramjit Kaur, learned State counsel has not assailed the aforesaid factual aspects but has opposed the bail application on the score that Harpreet Singh, co-accused was juvenile and furthermore, the learned Additional Sessions Judge, Kurukshetra had dismissed the bail application on the score that the victim is yet to be examined and long incarceration cannot be a ground to enable the accused to be released on bail.

As per custody certificate, the petitioner is in custody for the last 04 months and 07 days and is not involved in any other case. There is no allegation to the effect that the petitioner had in fact sent vulgar and obscene messages to the convict. The custodial interrogation of the petitioner is over and he is in judicial custody. The investigation of the case is complete, the challan has already been presented and conclusion of trial is likely to take sometime. Furthermore, merely because the statement of the victim or other material witnesses has not yet been recorded cannot be termed to be a circumstance to decline the concession of bail to the petitioner at this stage particularly the Courts are working on restricted mode due to Covid-19 Pandemic. The conclusion of the trial is likely to take sometime and no fruitful purpose will be served by detaining the petitioner in custody. There is no specific allegation that he had actually sent vulgar and obscene messages to the daughter of the complainant though his mobile phone was used by co-accused. As such, sufficient mitigating circumstances are made out to extend the concession of the bail to the petitioner.

Without expressing any opinion on the merits of the case, the

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instant petition is allowed. The petitioner is ordered to be released on bail on his furnishing requisite bail bonds to the satisfaction of the learned trial Court/Duty Magistrate concerned.

The petition is allowed accordingly.

24.01.2022 **(VIVEK PURI)**
renu **JUDGE**

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

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