

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

CRM-M-4279-2022

Date of Decision: 18.5.2022

Kaushik Kumar

..... Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Jagjit Singh Gill, Advocate, for the petitioner.

Mr. Neeraj Poswal, Assistant Advocate General, Haryana.

Rajesh Bhardwaj, J. (ORAL)

Prayer in the present petition is for the grant of regular bail to the petitioner in a case FIR No.25 dated 28.9.2021, registered under Sections 354-A, 354, 354-D, 451 IPC and Section 12 of POCSO Act, 2012, at Police Station Women Dabwali, District Sirsa.

As per factual matrix of the case, the FIR in question was lodged by the victim herself (name concealed). It was alleged that they are five sisters and she was studying in 8th class in Government School. On 25.9.2021 at about 8:30 a.m., she and her sister Manisha were standing on bus stand, then a boy, namely, Kaushik i.e. the petitioner started roaming around them. On 27.9.2021 at about 9:30 a.m. finding the victim alone at home, he came to their home and uttered obscene words. In the evening, when her mother came, she told everything to her mother. On hearing the same, her mother went to the house of Kaushik, however, they started abusing her mother. Having no other alternative, the FIR was lodged to take legal action against the accused. On the commencement of the investigation, the petitioner was arrested on 29.9.2021. The challan was presented and charges were framed. The petitioner has approached the learned Additional

Sessions Judge, Fast Track Special Court, Sirsa for grant of bail, who after hearing the parties, declined the same vide its order dated 13.1.2022. Aggrieved by the same, the petitioner approached this Court by way of filing the present petition for grant of regular bail.

Learned counsel for the petitioner submits the petitioner has been falsely implicated in the present FIR. He submits that the allegations in the FIR, on the face of it, are false and frivolous. He submits that both the families are neighbour and there being strained relations between both families, the present FIR was lodged. He submits allegations of words uttered by the petitioner are only verbal and there is no other independent witness of the alleged offence levelled against the petitioner. He submits that the petitioner has an impeccable record as he has no criminal antecedents. He has further submitted that the petitioner being behind the bars since 29.9.2021 and in the facts and circumstances, he deserves to be granted bail.

On the other hand, learned State counsel has opposed the submissions made by learned counsel for the petitioner and submitted that there are specific allegations against the petitioner and for the offence under the POCSO Act, there lies a presumption against the petitioner. He submits that in all there are 15 prosecution witnesses and out of which, the prosecutrix already stands examined.

Heard.

Both the families of the petitioner and the prosecutrix are the neighbourer and the punishment for the offences alleged has a maximum sentence of three years. As per the submissions made by learned State counsel, the prosecutrix already stands examined. The veracity of the

allegations would be evaluated by the trial Court only after conclusion of the trial. The trial of the case will take sufficiently long time and no useful purpose will be served by keeping the petitioner in custody for such a long time. In the overall facts and circumstances of the case, I am of the opinion that learned counsel for the petitioner has been able to make out a case for grant of regular bail to the petitioner. Accordingly, the present petition is allowed and the petitioner is ordered to be released on bail to the satisfaction of the concerned trial Court/Duty Magistrate.

Nothing said herein shall be treated as an expression of opinion on the merits of the case.

18.5.2022

sharmila

(RAJESH BHARDWAJ)

JUDGE

Whether Speaking/Reasoned

:

Yes/No

Whether Reportable

:

Yes/No