

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(210)

CRM-M-7293-2022

Date of Decision: 06.09.2022

Gajraj

--Petitioner

Versus

State of Haryana

--Respondent

CORAM:- HON'BLE MR. JUSTICE RAJESH BHARDWAJ.

Present:- Mr. S.K. Yadav, Advocate for the petitioner.

Mr. B.S. Virk, D.A.G., Haryana.

RAJESH BHARDWAJ.J (Oral)

The present petition has been filed under Section 439 Cr.P.C seeking the benefit of regular bail to the petitioner in case FIR No.236 dated 9.9.2021 under section 12 of POCSO Act and section 506 IPC, registered at Police Station, Khol, district Rewari.

As per factual matrix, the FIR in question was lodged by the father of the prosecutrix, wherein it was alleged that on 9.9.2021 his daughter was de-boarding from the school bus, then, present petitioner Gajraj son of Amar Singh abused her and tried to catch her. Thereafter, he ran away by giving her threats. A request was made to take legal action against the culprit.

The investigation commenced. During the course of investigation petitioner was arrested on 9.9.2021. Statement of the prosecutrix was recorded under section 164 Cr.P.C. He approached learned Addl. Sessions Judge, Rewari for grant of bail, however, after hearing the parties, the same was declined vide order dated 7.2.2022. Aggrieved by the

same petitioner has approached this court for grant of bail.

Learned counsel for the petitioner vehemently contends that the petitioner has been falsely implicated in the present case. He submits that father of the prosecutrix is running a Kiryana shop in the village, whereas father of the petitioner was to pay a sum of Rs.5,000/- to him. It is on account of the same that a dispute took place between both the families and due to which the present FIR was lodged. Counsel submits that from the reading of the allegations the maximum sentence for the alleged offence would be 3 years, whereas petitioner has already undergone a sentence of about one year. He submits that prosecutrix has already been examined by the Trial Court and hence the possibility of the petitioner influencing the material witnesses does not survive any more. He submits that petitioner has no criminal antecedents and he deserves to be granted the benefit of bail.

On the other hand, learned State counsel submits that there are specific allegations against the petitioner. He submits that prosecutrix is a minor. It is submitted that the prosecutrix has duly supported the case of prosecution while being examined as a prosecution witness before the learned Trial Court. He submits that out of the total 16 prosecution witnesses 3 including the prosecutrix and her father have been examined. He further submits that as per information provided to him petitioner is not involved in any other case.

I have heard learned counsel for the parties at length and have gone through the records carefully.

Admittedly, petitioner is behind bars since 9.9.2021. The material witnesses including the prosecutrix and her father already stand examined before the learned Trial Court and hence the possibility of the petitioner influencing them is no more. There is nothing on record to show that petitioner has any criminal antecedents. The veracity of the allegations levelled against the petitioner would be assessed by the Trial Court only upon conclusion of the trial. This court would refrain itself from commenting on the merits of the case, as the allegations and counter allegations would be assessed only after evaluation of the complete evidence to be led by both the sides before the Trial Court. The trial would take sufficiently long time in its conclusion.

In the totality of facts and circumstances and without making any observation on merits, present petition is allowed. Petitioner be enlarged on bail on his furnishing bail/surety bonds subject to the satisfaction of Trial Court/Duty Magistrate, concerned. Nothing stated herein shall be treated as an expression on the merits of the case.

(RAJESH BHARDWAJ)
JUDGE

06.09.2022

lucky

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