

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(216)

CRM-M-11425-2022

Date of decision:- 07.05.2022

Sonu Sahota

... Petitioner

Versus

State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Bhupinder Kumar Gupta, Advocate for the petitioner.

Mr. Prabhjot Singh Walia, AAG, Punjab
for State-respondent No.1

Mr. Kapil Sharma, Advocate
for respondents No.2 and 3.

SUVIR SEHGAL, J. (ORAL)

Instant petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 (for short “the Code”) seeking grant of post-arrest bail in case FIR No. 136 dated 04.12.2021, registered for offences under Sections 363, 366 and 376 of the Indian Penal Code, 1860 and Sections 4 and 6 of Protection of Children from Sexual Offences Act, 2012 (for short “the POCSO Act”), at Police Station Fattu Dyinga, District Kapurthala, Annexure P-1.

FIR, Annexure P-1, has been registered on the statement of a mother of a 15 year old girl on the allegation that she has two daughters and her younger daughter, who is school going, went missing on 30.11.2021.

On the next day, she received a call from a relative, who informed that the

missing girl was standing near Subhanpur crossing. When she reached there and recovered her daughter, she was told on 30.11.2021, the minor was taken by her uncle, Sonu, present petitioner, in his vehicle on the pretext of dropping her home, but instead he took her to a room in a hotel, where he sexually exploited her. The next day, he brought her to Subhanpur and made a telephonic call to a relative, who informed her mother.

Counsel for the petitioner has urged that false allegations have been levelled against the petitioner and the complainant as well as the minor victim, who have been examined by the prosecution, have not supported the allegations levelled in the FIR. By referring to their testimony, counsel submits that the minor victim wanted to meet her elder sister, but when her mother did not agree, she left her maternal home and went to her sister's house, where she stayed for 2-3 days. He submits that the petitioner, who is in custody since 09.12.2021 and is not involved in any other criminal case, is entitled to be released on bail.

Per contra, learned State counsel, upon instructions received from ASI, Dhyan Singh, has opposed the petition and has urged that there are specific allegations against the petitioner, who has been named in the FIR, and the allegations have been duly supported by the minor victim in her statement under Section 164 of the Code. He submits that the date of birth of the victim is 30.08.2006 and the provisions of the POCSO Act besides offences under IPC have been invoked. As per his instructions, three out of twenty two prosecution witnesses have been examined.

Having considered the submissions of the counsel for the parties, this Court is of the view that the involvement of the petitioner, who is a young man, in the offence would remain debatable and he would be entitled to be released on bail during the pendency of the trial as material prosecution witnesses have been examined and possibility of the early conclusion of the trial is remote.

Petition is allowed.

Petitioner is ordered to be released on bail on his furnishing adequate bail/surety bonds to the satisfaction of the Trial Court/Duty Magistrate concerned.

It is clarified that nothing said hereinabove shall be construed to be an expression of opinion on the merits of the case.

(SUVIR SEHGAL)
JUDGE

07.05.2022
Kamal

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No