

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(269)

CRM-M-13389-2022

Date of Decision: 30.05.2022

Sandeep

--Petitioner

Versus

State of Haryana

--Respondent

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

Present:- Mr. Divyam Dhakla, Advocate for the petitioner.

Mr. Kirpal Singh, A.A.G., Haryana.

RAJESH BHARDWAJ.J (Oral)

The present petition has been filed under Section 439 Cr.P.C praying for grant of regular bail to the petitioner in case FIR No.913 dated 24.9.2021 registered under section 452 I.P.C and Section 8 of POCSO Act at Police Station, Sadar Karnal, District Karnal.

As per facts of the case, present FIR was lodged by Ravinder Kumar i.e. father of the victim. The sum and substance of the allegations in the FIR is that his daughter was 10 years old. On 24.9.2021 Sandeep son of Sahab Singh i.e. the present petitioner came to their shop and finding his daughter alone he committed obscene act with her. Out of fear his daughter started weeping and on hearing her voice he came and asked about the reason on which the victim told about the incident. In the meantime accused Sandeep ran away from the spot. FIR was lodged to take legal action against the culprit.

The investigation commenced and the petitioner was arrested on 24.9.2021 itself. The statement of the victim was also recorded under Section 164 Cr.P.C. The petitioner approached the court of learned Addl. Sessions Judge-cum-Fast Track Special Court, Karnal for grant of bail,

however, after hearing the parties, the same was declined vide order dated 7.12.2021. Aggrieved by the same petitioner has approached this court for grant of bail.

Learned counsel for the petitioner has vehemently contended that the petitioner has been falsely implicated in the present case due to the rivalry among the neighbors. He submits that petitioner has no criminal antecedents and he has been falsely roped in the present case. Counsel submits that though under the pressure of the family members the prosecutrix was made to depose against the petitioner while her statement under Section 164 Cr.P.C was recorded. However, during her examination before the Trial Court, the prosecutrix, her mother and father who were examined as PW-1, PW-2 and PW-3 respectively have not supported the case of the prosecution and were thus declared hostile. Counsel submits that as all the material witnesses have turned hostile, false implication of the petitioner in the present case is writ large. He further submits that once the material witnesses have not supported the case of the prosecution, the same is left with no credible evidence and thus further incarceration of the petitioner is totally unwarranted in the eyes of law and he deserves to be enlarged on bail.

On the other hand, learned State counsel on instructions from ASI Rajneesh Kumar has opposed the submissions made by counsel for petitioner and submits that the prosecutrix is a minor and she had duly supported the case of the prosecution when her statement under Section 164 Cr.P.C was recorded. However, he candidly acknowledges that the material witnesses i.e. the prosecutrix, her mother and father have not supported the case of the prosecution while being examined before the learned Trial

Court. He submits that in all there are 7 prosecution witnesses out of which 3 have already been examined.

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

The petitioner is behind bars since 24.9.2021. There is nothing on record to show that petitioner has criminal antecedents. All the material witnesses including the prosecutrix have been examined and a perusal of their testimonies would show that they have not supported the case of the prosecution and hence they were declared hostile. The veracity of the allegations and counter allegations would be assessed only after conclusion of the trial. However, in the overall facts and circumstances of the case, this Court finds that counsel for petitioner succeeds in making out a case for grant of bail to the petitioner.

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 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

30.05.2022

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