

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

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CRM-M-14527-2022
Date of Decision: 30.11.2022

Suba Singh

.... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE ASHOK KUMAR VERMA

Present: - Mr. Kuljit Singh Bal, Advocate
for the petitioner.

Mr. Jaspal Singh Guru, Asstt. A.G., Punjab
for the respondent-State.

Mr. Umesh Aggarwal, Advocate
for the complainant.

ASHOK KUMAR VERMA, J. (ORAL)

The petitioner has filed the present petition under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail in case FIR No.177 dated 26.12.2021 registered under Section 377 of the Indian Penal Code, 1860 and Section 6 of the Prevention of Children from Sexual Offences Act, 2012 (for short 'the POCSO Act') at Police Station Verka, District Amritsar.

Reply dated 30.11.2022 by way of an affidavit of Sh.Gurpartap Singh Sahota, PPS, Assistant Commissioner of Police-East, Amritsar City, District Amrtisar and custody certificate dated 29.11.2022 have been filed by learned State counsel in the Court today which are taken on record.

The above-said FIR was registered on the statement of Neetu

w/o Rajinder Singh alleging that she has 02 sons namely Shaibhang Singh (11 years old) and Shebaj Singh (02 years old). On 26.12.2021 at about 12:30 p.m. his elder son Shaibhang Singh came home and started saying that his lower became wet and is hurting backside. When she asked his son what happened then he replied that father of Fauji uncle (the petitioner) called him at his house where after taking out his lower he had committed wrong act with him.

Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present case. Report of the medical officer shows that no anal intercourse has been done by the accused, thus, no offence under Section 377 of the IPC and under Section 6 of the POCSO Act are made out against the petitioner. The petitioner is about 72 years old person with no such previous antecedents. The petitioner in custody since 26.12.2021. The trial is likely to take long time. No useful purpose will be served by further detention of the petitioner in custody. Therefore, the petitioner may be released on regular bail.

Per contra, learned State counsel and learned counsel for the complainant have opposed the present petition and submit that the victim, who is 11 years old child, has no motive to falsely implicate the petitioner in the present case. Challan has been presented and charges have been framed against the petitioner in the Trial Court. Out of 16 prosecution witnesses, 06 have already been examined. The petitioner has committed a serious offence and he does not deserve the concession of regular bail.

I have heard learned counsel for the parties and gone through the paper-book.

As per reply filed by the State, in his statements recorded under Section 161/164 of the Cr.P.C., the victim while corroborating the version of the FIR had levelled specific allegations against the petitioner that the petitioner had called him to his house and locked gate of the house from inside. The petitioner taken the victim to one room on first floor of the house and asked the victim to lay down on one bed, but he denied. Then the petitioner removed lower of the victim and touched his penis on anal of the victim and did bathroom inside. The petitioner also threatened the victim not to disclose any one otherwise he would kill him. As per the Forensic DNA Test Report, the human semen present on the lower of the victim belongs to the petitioner.

Keeping in view the facts and circumstances of the case and evidence against the petitioner, I am of the considered view that the petitioner does not deserve the concession of regular bail.

In view of the above, the present petition is dismissed.

30.11.2022
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(ASHOK KUMAR VERMA)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No