

214

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

CRM-M-17974-2022

Date of Decision: October 31, 2022

Rohit Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR.JUSTICE RAJESH BHARDWAJ

Present: Ms.Ginnijeet Malhotra, Advocate
for the petitioner.

Mr.Harpreet Singh, Addl.A.G., Punjab.

.....

RAJESH BHARDWAJ, J.

Instant petition has been filed under Section 439 Cr.P.C. praying for grant of regular bail to the petitioner in case FIR No.85, dated 15.03.2021, under Section 376 IPC and Section 6 of POCSO Act, charge was framed under Section 376 AB IPC and Section 6 of POCSO Act, registered at Police Station Focal Point, Ludhiana.

As per facts of the case, the present FIR was lodged on the statement of mother of the victim (name concealed). It was alleged by the complainant that her daughter was about six years of age, whose date of birth is 11.01.2015. On 13.03.2021, when her daughter came from tuition, she was terrified. On asking by the complainant, the victim disclosed her that she was returning from tuition, one uncle called her to play and took her in his room. Thereafter, he put off her penty and put his finger in the vagina of the victim. On enquiry her mother came to know about the identity of the accused as Rohit Singh s/o Chander Prakash. The request was made to

lodge the FIR and take the legal action against the culprits.

On registration of the FIR, the investigation commenced and the victim was medically examined. The petitioner was arrested on 15.03.2021. He approached the learned Fast Track Special Court under POCSO Act, Ludhiana, praying for grant of bail. However, after hearing both the parties, the same was declined by the learned Special Court vide its order, dated 12.01.2022. Aggrieved by the same, the petitioner is before this Court praying for grant of bail.

It has been contended by counsel for the petitioner that petitioner is a poor person and he has been falsely implicated in this case. He has submitted that case of the prosecution is totally false and frivolous and without any evidence. He has submitted that the prosecutrix was medically examined and as per MLR, there is no injury on the body of the victim. He further submits that even the hymen was found intact and no semen was detected. It is further submitted that ocular version of the victim is not, at all, corroborated medically. He submits that the investigation has already been completed and the petitioner has no criminal antecedents and thus, he deserves to be granted bail.

On the other hand, learned State counsel has vehemently opposed the submissions made by counsel for the petitioner. He submits that the victim in the present case was only six years of age at the time of incident. He has submitted that there cannot be any motive of the victim, who is of tender age of six years, to falsely implicate the petitioner in this case. He has submitted that the prosecution witnesses have duly supported the case of the prosecution. He further submits that in view of the statutory provisions of Section 29 of the POCSO Act, the petitioner cannot escape the presumption. Section 29 of the POCSO Act reads as under:-

“29. Presumption as to certain offences.--Where a person is prosecuted for committing or abetting or attempting to commit any offence under Sections 3, 5, 7 and Section 9 of this Act, the Special Court shall presume, that such person has committed or abetted or attempted to commit the offence, as the case may be unless the contrary is proved.”

Learned State counsel submits that in the facts and circumstances of the case, as the case is under trial, no case to grant regular bail to the petitioner is made out.

Heard.

Evidently, the victim in the case was hardly six years of age at the time of incident. She has levelled specific allegations against the petitioner. On the basis of her revelation to her mother, the present FIR has been lodged. The case is under trial and the prosecution witnesses have so far supported the case of the prosecution. The facts and circumstances of the present case reveals that petitioner is facing prosecution for heinous offence. The trial Court has already commenced with the examination of the prosecution witnesses.

In the overall facts and circumstances, this Court is of the opinion that granting bail to the petitioner, at this stage, may prejudice the ongoing trial. Hence, this Court finds no merit in the petition filed by the petitioner and resultantly, the same is hereby dismissed.

October 31, 2022
meenuss

(RAJESH BHARDWAJ)
JUDGE

- | | | |
|----|-----------------------------|--------|
| 1. | Whether speaking/reasoned ? | Yes/No |
| 2. | Whether reportable ? | Yes/No |