

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

211

**CRM-M-17789-2022
Date of decision: 28.07.2022**

Happy

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. S.S. Mor, Advocate
for the petitioner.

Mr. Rohit Arya, DAG, Haryana.

MANJARI NEHRU KAUL, J. (ORAL)

This is the third petition filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the petitioner in case FIR No.15 dated 08.02.2021 lodged under Sections 506 IPC, Sections 66(E) and 67(B) of the Information Technology Act, 2000 and Sections 12 and 14 of the Protection of Children from Sexual Offences Act, 2012 registered at Women Police Station Jind, District Jind.

Learned counsel for the petitioner submits that subsequent to the withdrawal of the previous petition on 24.11.2021, all the material witnesses including the victim stand examined and 9 prosecution witnesses remain to be examined.

Learned counsel submits that a perusal of the FIR and the deposition of the victim as PW1 before the trial Court leaves no manner of doubt that both the petitioner aged 18 years and the victim aged 17 years who were studying in the same school were friends and had a love affair. In support, he has invited the attention of this Court to FIR

(Annexure P-1) and deposition of the victim before the trial Court which has been placed on record today, submits that both the victim and the petitioner were in regular touch with each other over the phone and would even video call each other. Learned counsel submits that the allegations levelled that he prepared the victim's obscene video under threat cannot be believed and in fact would have to be appreciated from the fact that it was not anybody's case much less the victim's that he was physically present with her when the alleged obscene video of the victim was prepared. Furthermore, he submits that mobile phone from which the obscene video was allegedly prepared did not even belong to the petitioner or for that matter to the victim. He submits that neither in the FIR nor in her deposition, the victim had alleged that the petitioner had ever even physically touched her much less inappropriately. A prayer has been made for extending the concession of bail to the petitioner as there is no likelihood of the petitioner tampering with the evidence as all material witnesses stand examined coupled with the fact that 9 prosecution witnesses still remain to be examined. Learned counsel submits that the petitioner is facing trial for offences under Section 66(E) and 67(B) of the Information Technology Act, 2000 for which maximum substantive punishment prescribed is 05 years and the petitioner has already undergone 01 year 06 months. He also submits that the petitioner is not involved in any other criminal case much less of similar kind.

Per contra, learned State counsel while opposing the prayer and submissions made by the counsel opposite, submits that no doubt there were no allegations levelled that the petitioner was physically

present with the victim and it was after putting her under threat, the alleged obscene video was prepared, however, the fact remained that he had lured a minor aged 17 years into a relationship and circulated the obscene video. Learned State counsel further submits that the victim supported the case of the prosecution while stepping into the witness box. He, on instructions, has apprised the Court that during the pendency of the trial, the victim died by suicide, however, no FIR or complaint stood registered in the said regard.

I have heard learned counsel for the parties and perused the material placed on record.

In the facts and circumstances as enumerated hereinabove, this Court deems it fit to extend the concession of bail to the petitioner, who has now been in custody for almost 01 year and 06 months having been arrested on 09.02.2021. Since the material witnesses stand examined there can be no apprehension of any evidence being tampered with or the witnesses being influenced by the petitioner.

Accordingly, the instant petition is allowed. The petitioner be admitted to bail to the satisfaction of the trial Court/Duty Magistrate concerned. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

28.07.2022

Vinay

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No