

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

208

CRM-M-18464 of 2022
Date of decision:08.07.2022

Pardeep @ Poli

... Petitioner

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Ajay Kumar Dahiya, Advocate
for the petitioner.

Ms. Deepshikha Chauhan, AAG, Haryana.

SUVIR SEHGAL, J. (Oral)

Instant petition has been filed under Section 439 Cr.P.C., seeking grant of regular bail to the petitioner in case FIR No.730 dated 11.11.2021 registered under Sections 376-D, 506 of Indian Penal Code, 1860 (for short “IPC”) and Section 6 of Protection of Children from Sexual Offences Act, 2012 (for short “the POCSO Act”) at Police Station Kharkhoda, District Sonipat (Annexure P-1), however, later on Section 376-D has been deleted and Section 376 IPC and Section 17 of POCSO Act, have been added.

Version of the prosecution is that FIR (Annexure P-1) has been registered on the basis of a statement of mother of 17 year old girl (for short “the prosecutrix”) on the allegation that her daughter was introduced to Pardeep (present petitioner) by Dr. Bengali and they used to remain in contact with each other on phone. On 12.10.2021, Pardeep contacted her

daughter on phone and picked her up in a car from her maternal uncle's residence. Two boys, namely, Ravi and Sanjay were also with him. Pardeep sexually assaulted her, Ravi, who made a video recording, also exploited her and Sanjay guarded the vehicle. Pardeep threatened to eliminate the prosecutrix, in case she discloses the incident to anyone.

Counsel for the petitioner has argued that there is an unexplained delay of one month in lodging the FIR (Annexure P-1). By referring to the supplementary statement of the complainant, recorded on 04.12.2021, under Section 161 Cr.P.C., counsel for the petitioner urges that within a few days of lodging of the FIR, version of the complainant regarding the incident has changed. Relying to the final report/challan dated 23.12.2021 (Annexure P-3), he submits that co-accused, Ravi, Sanjay and Dr. Bengali were found to be innocent, offence under Section 376-D IPC, was deleted and Section 376 IPC was added. Still further, counsel has invited attention of the Court to the testimony of the complainant (PW3) as well as prosecutrix (PW2), appended as Annexures P-4 and P-5 with the petition, to submit that both star witnesses of the prosecution have been declared hostile. He submits that the petitioner, who is in custody since 25.11.2021 is no longer required for custodial interrogation and deserves to be released on bail.

Per contra, State counsel, upon instructions from ASI Vedpal, has opposed the petition and has submitted that the prosecutrix has supported the allegations in her statement under Section 164 Cr.P.C.. Reference has been made by her upon narration given in the MLR, wherein,

besides supporting the accusation, the prosecutrix has stated that she has been physically assaulted by her uncle on 10.11.2021. She submits that there are some external injuries on the prosecutrix. Still further, she has instructions to state that 08 out of total 20 prosecution witnesses, have been examined.

Having considered the submissions made by counsel for the parties, this Court is *prima facie* of the view that complicity of the petitioner in the crime would remain controvertible before the Trial Court and the petitioner, who is in custody for the last more than 07 months, would be entitled to be enlarged on bail as the trial is likely to take time to conclude.

Without delving into the merits or demerits of the arguments addressed by counsel for the parties, petition is allowed and the petitioner is ordered to be released on bail on furnishing bail/surety bonds to the satisfaction of the Trial Court/Duty Magistrate concerned.

It is clarified that any observation made hereinabove shall not be construed to be an expression of opinion on the merits of the case.

July 08, 2022
savita

(SUVIR SEHGAL)
JUDGE

Whether Speaking/Reasoned	Yes
Whether Reportable	Yes