

CRM-M-23648-2022

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

CRM-M-23648-2022 (O & M)

Date of decision:28.07.2022

Sonu

...Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present:- Mr. A.S.Jaswal, Advocate,
for the petitioner.

Mr. Pawan Kumar Jhanda, AAG, Haryana.

HARNARESH SINGH GILL, J. (ORAL)

CRM-25418-2022

Allowed as prayed for.

CRM-25419-2022

Allowed as prayed for. Annexures A-2 to A-4 are taken on record, subject to all just exceptions.

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Through this second petition, the petitioner seeks regular bail in case bearing FIR No.03 dated 28.01.2020, registered at Women Police Station Hansi, under Sections 363, 366-A, 450, 506, 376(2) (n), 376(3) IPC and Sections 6 and 10 of the POCSO Act.

Learned counsel for the petitioner contends that the petitioner has been in custody since 30.01.2020; that Suresh, a neighbour of the complainant, is serving in the Haryana Police and he had a dispute with the petitioner qua a wall and that at the instance of aforesaid Suresh, the petitioner has been falsely implicated in the present case.

Learned counsel further contends that the victim never stated

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before the legal aid counsel that the petitioner used to penetrate his genital into her mouth; that as per the allegations, the victim disclosed the entire story to her grand-mother on 24.01.2020, but the above-noted FIR was got registered on 28.01.2020 i.e. after a delay of 04 days. Learned counsel further contends that as per the FSL report, no semen was found on the vulval/anal swabs of the victim. He further contends that no date, time or specific place with regard to the alleged occurrence, had been narrated by the victim. On this premise, learned counsel prays that the petitioner be released on bail.

On the other hand, learned State counsel, while opposing the grant of bail to the petitioner, submits that at the time of the occurrence, the victim was of the age of 09 years and 10 months; that the petitioner had been physically abusing the victim for six-seven months preceding the occurrence, and that the victim and her grand-mother while appearing into the witness-box, have fully supported the case of the prosecution.

I have heard the learned counsel for the parties.

In the present case, the petitioner is a neighbour of the victim girl. The mother of the victim passed away in 2017. The petitioner while taking advantage of the absence of her father/grand-mother, used to visit the house of the victim or call her at his house. There are serious allegations against the petitioner that he had committed aggravated penetrative sexual assault upon the victim, aged about 09 years and 10 months and even penetrated his genital into her mouth. The petitioner, instead of showing brotherly love and affection towards the victim, had made her the victim of lust. At the time of the occurrence, the petitioner was nearly 25 years old. The difference in the age of minor victim and the

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petitioner makes this offence very heinous, which has shaken her confidence and trust. It is very difficult for a minor victim, like in the present case, to withstand the social ostracization and mental harassment meted out in the society.

Moreover, the victim and her grand-mother while appearing before the trial Court as PW 1 and PW 2, respectively, have fully supported the case of the prosecution. Ex facie, the contentions of the learned counsel for the petitioner that the petitioner has been falsely involved in the present case at the instance of Suresh, lacks merit for the reason that no ulterior motive has been assigned to the victim for making a false statement against the petitioner and it is not expected of her father/grand-mother to put the honour of the victim at stake for implicating the petitioner at the instance of one Suresh. The petitioner would not have been implicated by levelling such allegations without any rhyme or reason.

So far as the contentions of the learned counsel for the petitioner that there was a delay in getting the FIR registered and that no semen was found on vulval/anal swabs of the victim, are concerned, this Court refrain from going into the deep appreciation of evidence while deciding the petition for regular bail.

Keeping in view the nature and gravity of the offence, this Court does not find any merit in the present petition.

Dismissed.

28.07.2022

parveen kumar

(HARNARESH SINGH GILL)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No