

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

**CRM-M-19442-2020 (O&M)
Date of decision : 30.05.2022**

Madan Lal

..... Petitioner

versus

State of Haryana

.....Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Amitabh Tewari, Advocate and
Ms. Sanya Kaushal, Advocate
for the petitioner.

Mr. Neeraj Poswal, AAG, Haryana.

Ms. Kriti S. Avasthi, Legal Aid Counsel
for the complainant.

RAJESH BHARDWAJ, J. (Oral)

Prayer in the present petition is for grant of regular bail to the petitioner in case FIR No.0005 dated 16.01.2020, under Section 6 of The Protection of Children from Sexual Offences Act, 2012 (later on added Section 3 of the SC & ST, (Prevention of Atrocities) Act, 1989, Section 376(2)n of IPC while submitting the final report), registered at Women Police Station, Sirsa.

As per the facts of the case, the present FIR was lodged by father of the prosecutrix (name concealed). The sum and substance of the allegations made in the FIR is that his daughter-victim is 11 years of age who was taking coaching for Tie Kondo in a private academy at Kirti Nagar which was run by Madan Lal i.e. the petitioner. In summer vacation, in the month of July, she used to visit coaching centre. During that period, her coach Madan Lal sexually exploited her. Though the victim did not disclose the same to her parents, however, on 12.01.2020, she disclosed the same to her father. On hearing the same, the present FIR

was lodged to take the legal action against the culprits. The investigation commenced and the petitioner was arrested on 16.01.2020. He approached the Court of learned Additional Sessions Judge, Special Fast Track Court, Sirsa praying for grant of bail. After hearing counsel for the parties, the same was declined by the learned Additional Sessions Judge, Special Fast Track Court, Sirsa vide order dated 10.07.2020. Aggrieved by the same, petitioner is before this Court for grant of regular bail.

Learned counsel for the petitioner has vehemently contended that petitioner has been falsely implicated in this case. He has submitted that from lodging of the FIR, it is apparent that the alleged occurrence had taken place about 06 months prior to lodging of the FIR. He submits that there is no explanation regarding the same. He further submits that the petitioner was not even present at the time when the alleged incident took place. He submits that during investigation, the victim was given offer by the investigating agency for her medical test, however, her parents as well as the victim never consented for the same and thus, the medical was not conducted. He has submitted that except the bald allegations which have been levelled after 06 months, there is nothing to corroborate the ocular version of the prosecutrix. He further submits that petitioner is behind bars from last about 2 ½ years. He has never been involved in any other criminal case and thus, has no criminal antecedents. He submits that even otherwise, the material witnesses already stand examined by the trial Court and thus, the main apprehension projected by the prosecution that the petitioner can tamper with the prosecution witnesses, no more survives. He submits that in the overall facts and circumstances of the case, the petitioner deserves to be granted bail.

Learned counsel for the complainant opposes the submissions made by counsel for the petitioner. She has submitted that the prosecutrix is minor and even if her medical examination has not been conducted, she has deposed in cross-examination before the trial Court and has supported the case of the prosecution throughout. She submits that the petitioner was the coach of the victim and thus, does not deserve any leniency.

Learned State counsel has submitted that admittedly the victim is minor and she has supported the case of the prosecution throughout. He submits that the allegations levelled in the FIR were duly reiterated by the prosecutrix while she was examined by the trial Court, however, he candidly acknowledges that the victim did not give her consent for her medical examination and thus, he submits that Dr. Dhan Laxmi, Medical Officer, examined as PW-9 deposed in her cross-examination that at the time of medical examination, there was no sign/symptom on the person of the victim that she was subjected to any sexual assault. He submits that in all, there are 18 prosecution witnesses, out of which, 11 prosecution witnesses already stand examined. He has submitted that the material witnesses in the case have already been examined by the trial Court. He also endorse that as per the information provided, the petitioner is not involved in any other criminal case. He however, submits that the case of the prosecution is also medically corroborated.

I have heard counsel for the parties and perused the record.

Admittedly, the petitioner is behind bars since 16.01.2020.

The FIR has been lodged by father of the victim wherein, the alleged

occurrence took place in July, 2019 whereas, the present FIR has been lodged on 16.01.2020. Though the victim has supported the case of the prosecution, however, out of total 18 prosecution witnesses, 11 witnesses including all the material witnesses already stand examined. Thus, the chances of tampering with the prosecution witnesses by the petitioner definitely does not survive any more. The petitioner has no criminal antecedents.

The trial of the case will take sufficient long time and no useful purpose will be served by keeping the petitioner in custody for such a long time. Though, the veracity of the allegations would be assessed after conclusion of the trial and on the appreciation of the evidence, however, confining to the prayer made for bail, this court finds that learned counsel for the petitioner succeeds in making out a case for grant of regular bail. Accordingly, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail/surety bonds to the satisfaction of the concerned trial Court/Duty Magistrate. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

(RAJESH BHARDWAJ)
JUDGE

30.05.2022
m.sharma

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No