

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(212)

CRM-M-33352-2021

Date of decision: - 13.01.2022

Parveen

....Petitioner

Versus

State of Haryana

.....Respondent

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. Ajit Sihag, Advocate,
for the petitioner.

Mr. Manish Dadwal, AAG, Haryana.

(Through Video Conferencing)

VIKAS BAHL, J. (ORAL)

This is the first petition under Section 439 of Cr.P.C. for grant of regular bail in FIR No.348 dated 22.05.2020, under Sections 377, 506, 196 and 120-B of the IPC and Section 6 of the Protection of Children from Sexual Offences Act, 2012 (hereinafter referred as 'POCSO Act') and Sections 75/82 of the Juvenile Justice Act, registered at Police Station Sadar Hisar, District Hisar.

The FIR in the present case has been registered on the basis of statement of complainant made by Charanjit Singh, aged 15 years, who has stated that he is studying in a Gurukul (name concealed), situated at village Dhiranwas for the last three years. On 23.05.2019 at around 10.00

PM., Ramesh/co-accused took the complainant on one side and committed wrong act with him and told him not to disclose the matter to anyone otherwise he would fail him and would also issue a bad character certificate to the complainant. It is further alleged that a large number of other teachers from the Gurukul started harassing the complainant and thereafter, the said Ramesh/co-accused again committed wrong act with him and when the news spread, then, large number of teachers including one Nirmal started to harass the complainant. It is alleged that the said Ramesh/co-accused had done the wrongful act two times with the complainant, but on 21.05.2020 at around by 10.30 PM, one Inderjit Arya had come to the house of the complainant and took him to the office where Raj Kumar @ Bajrang Lal Goyal had threatened the complainant to suppress the said two incidents.

Learned counsel for the petitioner has submitted that in the present case, the petitioner has not been named in the FIR and there is no allegation against him. It is argued that the wrong act in the present case had been committed by Ramesh/co-accused and the petitioner is not even remotely involved in the said case. It is further submitted that although, the first incident is stated to have taken place on 23.05.2019, yet the present FIR has been registered after a period of almost one year i.e., on 22.05.2020. It is further submitted that the only allegation against the petitioner, which has been made during further investigation, is that the petitioner along with other teachers of the Gurukul had forced the students to write an apology letter. Regarding the same, learned counsel for the petitioner has referred to Annexure R-2, which is the statement of

the present complainant with whom the wrong act has been committed, who has stated that the apology letter has been got written by Ramesh Shashtri and Nirmal Shashtri after beating and threatening him to write the said letter. As per the said statement, it has been specifically stated that except Ramesh Shahstri, no other students have committed any wrong act with the complainant. Learned counsel for the petitioner has further argued that as per the said statement, there is no allegation against the present petitioner that he had forced the complainant to write any apology letter. It is further submitted that Nirmal, against whom the said allegation has been made and who is also named in the FIR, has already been granted the concession of regular bail by the Additional Sessions Judge, Fast Track Special Court, Hisar, vide order dated 10.11.2021. It is submitted that the case of the present petitioner is on a better footing than that of the said Nirmal and the petitioner has been in custody since 14.06.2021 and the challan has already been presented and there are 22 witnesses and thus, the trial is likely to take time to conclude, moreso, in view of the third wave of the pandemic and the petitioner is not involved in any other case and thus, the petitioner deserves the concession of regular bail.

Learned State counsel, on the other hand, has opposed the present petition for regular bail and has submitted that the petitioner along with other teachers had forced the students to write an apology letter. In this regard, a reference has been made to the statement (Annexure R/4) of one student, namely, Krish, where he has stated that it is the present petitioner, who has made him to write the apology letter. The other factual

averments made by the learned counsel for the petitioner, however, have not been disputed by learned State counsel.

Learned counsel for the petitioner in rebuttal has submitted that the said Krish is not the aggrieved person against whom the offence under Section 377 of IPC and the offence, which attract POCSO Act, have been committed. It is further submitted that a perusal of the said statement would also show that the apology letter was made to be written as the said Krish had kicked his 5th Class batchmate-Parveen. It is further stated that at any rate, the petitioner is not involved in the wrongful act committed against the complainant.

This Court has heard the learned counsel for the parties and has perused the paper book.

It is not disputed that in the FIR the petitioner has not been named and no overt act has been attributed to the petitioner and it is the co-accused Ramesh, who is alleged to have committed wrong acts with the complainant on account of which, Section 377 of IPC and the provisions of POCSO have been invoked. The FIR has been registered after a period of almost one year from the date of first incident, which is 23.05.2019 as the date of the FIR is 22.05.2020. In the FIR, allegations have been levelled against several teachers including one Nirmal, for harassing and pressurizing the complainant, moreso, no allegation has been made in the FIR against the present petitioner. Even as per the statement i.e. Annexure R/2 of the complainant, it is not alleged by the complainant that it is the present petitioner, who had forced him to write any apology letter, rather, as per the said statement, it is Nirmal Shashtri

and Ramesh Shashtri, who had been pressurizing him to write the said letter. The said Nirmal against whom the allegations have been made in statement annexed as Annexure R/2 as well as in the FIR, has already been granted the concession of regular bail, vide order dated 10.11.2021, by the Additional Sessions Judge, Fast Track Special Court, Hisar and the case of the present petitioner is not worse off than the case of the said Nirmal. With respect to the statement annexed as Annexure R/4, it would be a matter of trial as to whether the said Krish was forced to write apology letter by the petitioner or was the said Krish involved in some other incident, on account of which the apology letter was required to be taken. At any rate, there is no allegation qua the said Krish that any wrong act, so as to attract Section 377 of IPC and the POCSO Act, has been committed against him. The petitioner has been in custody since 14.06.2021 and the challan has already been presented and there are 22 witnesses, none of whom have been examined and the trial is likely to take time, moreso, in view of the present pandemic and the petitioner is not involved in other case and thus, the present petition for grant of regular bail deserves to be allowed.

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 / CJM, and subject to him not being required in any other case.

It is however made clear that in case the petitioner influences any witness then it would be open to the State to move an application for cancellation of bail of the petitioner.

Nothing stated above shall be construed as a final expression of opinion on the merits of the case and the trial would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail petition.

January 13, 2022
naresh.k

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?	Yes
Whether reportable?	Yes