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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-31165-2022

Date of Decision: August 06, 2022

Shahrukh Khan

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR.JUSTICE RAJESH BHARDWAJ

Present: Mr.Nipun Vashist, Advocate
for the petitioner.

Mr.Neeraj Poswal, AAG, Haryana.

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RAJESH BHARDWAJ, J.(ORAL)

Instant petition has been filed under Section 439 Cr.P.C. praying for grant of regular bail to the petitioner in case FIR No.83, dated 07.04.2022, under Section 8 of POCSO Act, registered at Police Station Women, NIT, Faridabad, District Faridabad, Haryana.

Succinctly, the facts of the case are that the present FIR was lodged by the victim (name concealed). It was alleged that in January 2022, she got acquainted with Shahrukh Khan through Instagram and thereafter they started exchanging conversation at Instagram. Shahrukh met her after the school and gifted her a phone. However, her phone was caught by the teacher in the school and her father was informed. She stopped conversation with Shahrukh. However, he started troubling her through her friends. She warned Shahrukh not to send any message to her friends and stopped troubling her. However, on 02.04.2022 at about 11.00 a.m. he met her after the school and took her to his home. He caught hold her hand and kissed

her. He came to drop her home at the half of the distance. The victim told the same to her father. However, again on 05.04.2022, a phone was given to her friend Muskaan, who gave it to the victim, which again was caught by the teacher in the school. The teacher told the same to her father. Then her father took the complainant before the police where she lodged the complaint for registering the FIR and taking action against the accused.

On the basis of the complaint, the FIR was lodged and the investigation commenced. The petitioner was arrested on 10.05.2022. On the commencement of the investigation, the challan was presented before the trial Court. The petitioner approached the learned Fast Track, Special Court, Faridabad, praying for grant of bail, however, after hearing both the sides, the learned Fast Track Court declined the same vide its order dated 08.07.2022. Aggrieved by the same, the petitioner has approached this Court.

Counsel for the petitioner has vehemently contended that the petitioner has been falsely implicated in this case. He submits that petitioner is a young boy and at the most there is a consensual relationship between the petitioner and the prosecutrix. He has submitted that there is a delay of five days in lodging the FIR. He further submits that from the reading of the allegations in the FIR, there is no *mens rea* on the part of the petitioner and thus, the offence, as alleged, is not made out. He submits that the learned Fast Track Court has committed illegality in declining the bail prayed by the petitioner. He submits that petitioner is behind bars since 10.05.2022 and hence, he deserves to be granted bail.

On the other hand, learned State counsel has opposed the submissions made by counsel for the petitioner. He submits that the

prosecutrix is 14 years of age and thus a minor and hence even if it is assumed that this was consensual relationship, the same would have no legal sanctity. He has submitted that statement of the prosecutrix was also recorded under Section 164 Cr.P.C. where again she stood with her allegations against the petitioner. He submits that only challan has been presented and the charges are yet to be framed and thus granting bail to the petitioner at this stage would seriously prejudice the trial and hence, the same deserves to be rejected.

Heard.

Admittedly, the prosecutrix is 14 years of age and thus a minor. The allegations against the petitioner are specific not only in the FIR but also in her statement recorded under Section 164 Cr.P.C. wherein she has also supported the case of the prosecution. As per the provisions of Sections 29 and 30 of POCSO Act, there lies a presumption against the accused regarding the allegations made by the minor. Trial is at the initial stage. The challan is only presented and the charges etc. are yet to be framed.

In the overall facts and circumstances of the case, the Court is of the opinion that granting bail to the petitioner at this stage would be prejudicial to the ongoing trial. Thus, the Court is of the opinion that the petitioner does not deserve to be granted bail. Resultantly, the present petition, being devoid of any merit, is hereby dismissed.

August 06, 2022
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(RAJESH BHARDWAJ)
JUDGE

1. Whether speaking/reasoned ?
2. Whether reportable ?

Yes/No
Yes/No