

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

207

CRM-M-32435-2022

Date of decision :-06.08.2022

Bobby

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Rahul Rampal, Advocate for the petitioner.

Mr. P.S. Walia, AAG, Punjab
for the respondent-State.

SUVIR SEHGAL, J.

This is the second petition preferred by the petitioner under Section 439 of the Code of Criminal Procedure, 1973 (for short “the Code”) seeking grant of regular bail in case FIR No.82 dated 04.05.2021, Annexure P-1, lodged at Police Station Sadar, District Sri Muktsar Sahib for offences under Sections 354-B, 341, 34 of IPC and Sections 7 and 8 of Protection of Children from Sexual Offences Act, 2012 (for short – “the POCSO Act”).

Case of the prosecution is that FIR, Annexure P-1, has been registered on the statement of father of a 12 year old school going girl (hereinafter referred to as ‘the victim’) wherein he stated that he is working as a Compounder in a private hospital. On 28.04.2021, when the victim was coming back home in the afternoon, his neighbour, Bobby, present petitioner and Manna caught hold of the victim and forced her inside a Dharmshala where they indulged in obscene activity with her, however, the victim managed to escape and reached back home. She confided in her mother, who narrated the ordeal to the complainant.

I have heard counsel for the parties.

A young innocent school going girl, who has not even reached her teens has been subjected to sexual assault. The victim has supported the allegations in her statement recorded under Section 164 Cr.P.C. as well as in her testimony, Annexure P-3, before the Court where she has been examined as PW-2. Her father-complainant, PW-1, and her mother, PW-3, have corroborated her version in their depositions, Annexures P-4 and P-5, respectively, recorded before the trial Court on 09.11.2021.

The first petition preferred by the petitioner was withdrawn, after arguments on 06.04.2022, Annexure P-2, sensing an adverse result. This petition has been filed barely three months thereafter. Mere fact that in the meantime, the investigating officer has been examined would not amount to a change of the factual situation so as to enable the petitioner to approach the Court again. Without there being any change in the circumstances, the second petition would amount to seeking a review of the earlier order, which is not permissible in criminal law as has been held by the Hon’ble Supreme Court in **Hari Singh Mann vs. Harbhajan Singh Bajwa, (2001) 1 SCC 169; State of Madhya Pradesh vs. Kajad, 2001 SCC (Criminal) 1520 and State of Maharashtra vs. Capt. Buddhikota Subha Rao, 1989 Suppl. (2) SCC 605.**

Accordingly, the second petition seeking grant of bail during the pendency of the trial, is dismissed.

It is clarified that nothing said hereinabove shall be construed to be an expression of opinion on the merits of the case.

06.08.2022
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(SUVIR SEHGAL)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No