

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

CRM-M-35998-2021 (O&M)

Date of Decision: 9.8.2022

Parveen

..... Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Keshav Pratap Singh, Advocate, for the petitioner.

Mr. Neeraj Poswal, Assistant Advocate General, Haryana.

Mr. Aditya Sanghi, Advocate, for the complainant.

Rajesh Bhardwaj, J. (ORAL)

CRM-28554-2022

Annexures P-7 and P-8 are taken on record.

Application stands allowed.

Main case

Prayer in the present petition is for the grant of regular bail to the petitioner in a case FIR No.27 dated 28.1.2021, registered under Sections 323, 506 and 34 IPC and Section 10 of POCSO Act, 2012, at Women Police Station, NIT Faridabad, District Faridabad.

As per factual matrix of the case, the complaint was filed to the police by the victim, who was 11 years of age (name concealed). It was alleged that on 27.1.2021 at about 5:00/5:30 pm, when her mother had gone out of house, she was alone and in the meanwhile, Parveen i.e. the petitioner came to her house and she was dragged to the roof. He removed her *pajami* and touched her vagina. She came down crying and told her mother. When the act of the accused was objected to by her mother, then they were given beatings by the accused. Complaint was filed to lodge the FIR and to take

legal action against the accused. On registration of the FIR, the investigation commenced. The statement of the prosecutrix was recorded under Section 164 Cr.P.C. and medical examination of the victim was conducted. The petitioner was arrested on 12.5.2021 and he approached the Court of learned Addl. Sessions Judge, Fast Track Special Court, Faridabad for grant of bail, who, after hearing the parties, declined the same vide order dated 4.8.2021. Aggrieved by the same, the petitioner has approached this Court by way of filing the present petition for grant of bail.

Learned counsel for the petitioner has contended that the petitioner has been roped in a false and frivolous case. He has submitted that both the parties i.e. the petitioner and the complainant are collateral and there is family dispute between both the families and it is on account of the same, the present FIR has been lodged to settle the on going family dispute. He has submitted that even on merits of the case, the allegations levelled against the petitioner are totally based on cock and bull story. He has submitted that the prosecutrix has improved her version consistently while recording statement under Section 164 Cr.P.C. and thereafter, when her statement in the Court as prosecution witness. He submits that the investigation is already complete and the statements and the prosecutrix and that of her mother have already been recorded by the trial Court, however, her father was given up. He submits that as material witnesses already stands examined, there cannot be any apprehension of tampering with the prosecution evidence by the petitioner. He submits that the petitioner is behind bars from last more than one year. He submits that the petitioner has no criminal antecedents and thus, deserves to be granted bail.

Learned counsel for the complainant vehemently opposes the submissions made by learned counsel for the petitioner. He submits that the prosecutrix is minor 11 years of age and she has duly supported the case of the prosecution at every stage of the case. He submits that once the prosecutrix and other witnesses have duly supported the case of the prosecution, the petitioner does not deserve the concession of bail.

Learned State counsel, on instructions from ASI Sushila, submits that the prosecutrix has given consistent statement while recording under Section 164 Cr.P.C. and then in the Court. However, he submits that out of 17 prosecution witnesses, material witnesses, i.e. the prosecutrix and her mother have been examined by the trial Court. He further submits that as per the information provided to him, the petitioner has no criminal antecedents and there is no case against him except the present case.

Heard.

Admittedly, both the parties are collateral. The prosecutrix and her mother already stands examined by the trial Court. The petitioner is behind bars since 12.5.2021. There is nothing on record showing that the petitioner has any criminal antecedents. Once, the material witnesses already stands examined, probability of the petitioner tampering with the prosecution evidence does not survive any more. The evaluation of the veracity of the allegations are totally in the domain of the trial Court who will do so after conclusion of the evidence to be led by both the parties. This Court would refrain itself from commenting anything on the merits of the case, however, confining to the prayer for grant of bail to the petitioner, I am of the view that learned counsel for the petitioner has been able to make

out a case for grant of regular bail to the petitioner. The trial would take sufficient long time for its conclusion.

Accordingly, the present petition is allowed and the petitioner is ordered to be released on bail 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.

9.8.2022		(RAJESH BHARDWAJ)
sharmila		JUDGE
	Whether Speaking/Reasoned :	Yes/No
	Whether Reportable :	Yes/No