IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

(214) **CRM-M-38244-2021**
Date of decision:- 27.01.2022

Vikas **... Petitioner**

Versus

State of Haryana **... Respondent**

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. S.S.Mor, Advocate for the petitioner.

Ms. Deepshikha Chauhan, AAG, Haryana.

...

SUVIR SEHGAL, J. (ORAL)

Heard through video conferencing.

Instant petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail in case FIR No.80 dated 13.04.2021 registered for offences under Sections 452, 376 (3), 506, 120-B and 34 of the Indian Penal Code, 1860, Section 4 of the Protection of Children from Sexual Offences Act, 2012 and Section 67-A of the Information Technology Act, 2000 (as amended by Information Technology (Amendment) Act 2008) (Sections 376-D and 120-B, IPC were added later on) at Police Station Women, Jhajjar, District Jhajjar, Annexure P-1.

As per the version of the prosecution, FIR, Annexure P-1, has been registered on the statement of the mother of the 13 year old victim on the allegation that on 04.04.2021, when the parents of the minor victim were not at home, Vishal entered the house and forced himself upon the victim and recorded the unsavory incident on a mobile phone. While leaving, he threatened the victim not to disclose the incident to anyone

KAMAL SHARMA
2022.01.31 16:49
I attest to the accuracy and
integrity of this document

otherwise she would face dire consequences. On 12.04.2021, when someone threw a chip, wrapped in paper, inside their house and the complainant saw the video clipping, she enquired from her daughter and lodged the FIR.

Counsel for the petitioner has contended that the petitioner has neither been named in the FIR, which has been lodged after delay of eight days, nor in the statement of the victim, Annexure P-3, recorded under Section 164, Cr.P.C.. He submits that though the victim has named the petitioner in her testimony, Annexure P-8, but the sole allegation against the petitioner is that he was standing outside the house and talking with co-accused, Vishal and Naseeb. Counsel submits that the petitioner is a 19 year old boy with a clean past and he is no longer required for custodial interrogation, as the challan has been presented and the trial is progressing.

Per contra, learned State counsel, upon instruction from, ASI, Reena has opposed the petition and submitted that the present petitioner was fully aware of the intentions of the main accused, Vishal, and was standing on guard outside the house. As per her instructions, since the mobile belonging to main accused, Vishal, had a low balance, he borrowed the mobile of the present petitioner, which was used for recording the unfortunate incident, wherefrom it was transferred by Vishal to his own mobile as well as that of Naseeb. Upon further instructions, she submits that four out of twenty three prosecution witnesses including the complainant as well as the victim have been examined.

KAMAL SHARMA
2022.01.31 16:49
I attest to the accuracy and
integrity of this document

Having considered the facts of the case, this Court is prima facie of the view that the complicity of the petitioner in the crime would remain debatable. Keeping in view the circumstances that the petitioner is in custody for the last more than nine months and the trial is likely to take time to conclude, he is entitled to be released on bail.

Without examining the arguments addressed by the counsel for the parties, the petition is allowed. The petitioner, namely, Vikas, is ordered to be released on bail on his furnishing adequate bail/surety bonds to the satisfaction of the Illaqa Magistrate/Duty Magistrate concerned. The Court may impose any additional condition it deems appropriate.

It is clarified that any observation made hereinabove shall not be construed to be a reflection of opinion on the merits of the case.

(SUVIR SEHGAL)
JUDGE

27.01.2022
Kamal

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No

KAMAL SHARMA
2022.01.31 16:49
I attest to the accuracy and
integrity of this document