

219 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Date of Decision: 09.12.2022
CRM-M-35066-2022

SHIV KUMAR ... PETITIONER
VS.
STATE OF PUNJAB .. RESPONDENT

CRM-M-43181-2022

NARESH KUMAR ... PETITIONER
VS.
STATE OF PUNJAB .. RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present : Mr. Ramneek Vasudeva, Advocate
for the petitioner in CRM-M-35066-2022.

Mr. Durga Dutt Sharma, Advocate
for the petitioner in CRM-M-43181-2022.

Ms. Ruchika Sabherwal, DAG, Punjab.

VIVEK PURI, J.(ORAL)

Shiv Kumar and Naresh Kumar-petitioners are seeking regular bail in the case bearing FIR No. 15 dated 23.02.2022 under Sections 376(2)(d)(I), 195(A) IPC, under Sections 6/14/15/21/23 of the POCSO Act and under Sections 67/67(A)/67(B) of the IT Act registered at Police Station Nangal, District Runnagar.

Learned counsel for the petitioners contend that Amritpal Dhiman, co-accused was running a school in the year 2010 and had been exploiting the female students. He had also made obscene videos and pictures of the students, who were of young and tender age in his mobile phone. Subsequently, he had stored those videos and pictures in the computer. The arrest of Amritpal Dhiman was effected and in his disclosure statement, it was pointed out that Jasbir Singh (since deceased) informed

that Shiv Kumar-petitioner has stolen obscene videos and pictures from the computer of Amritpal Dhiman, co-accused. Subsequently, Shiv Kumar-petitioner was also arrested and as per disclosure statement, he had found the folder from the computer of Amritpal Dhiman, co-accused containing obscene videos and photographs of the girls. Thereafter, he had transferred the photographs in a pen drive. Inadvertently, he handed over the pen drive to Naresh Kumar-petitioner for transferring some songs in the pen drive. Thereafter, Naresh Kumar-petitioner had shared the photographs with Sudhir @ Sudhir Sharma, co-accused, who was working as a Press Reporter. It has been further submitted that the occurrence pertains to the year 2010 and none of the petitioners have been nominated in the FIR. The petitioners have been sought to be implicated on the basis of the disclosure statement of Amritpal Dhiman, co-accused. Even no allegation with regard to sexual abuse or rape has been attributed against the petitioners. Substantially, similar allegations have been levelled against Sudhir @ Sudhir Sharma, co-accused, who has been granted pre-arrest bail by this Court. The petitioners have been involved on the basis of suspicion only and the primary allegations against the petitioners are to the effect that they had been blacking mailing Amritpal Dhiman, co-accused, on the basis of obscene videos and pictures, which were in their custody. The investigation of the case is complete and challan has been presented. The petitioners are in custody for a period of more than 08 months.

Learned State counsel has opposed the bail application on the score that there are serious allegations levelled against the petitioners.

It may be mentioned here that the petitioners are sought to be hauled up in the instant case on the basis of the disclosure statement of the co-

accused. There is no allegation with regard to commission of sexual assault or sexual abuse attributed to them. The primary allegation against the petitioners is to the effect that on the basis of the obscene videos and photographs which came in their possession, they had been blacking mailing Amritpal Dhiman, co-accused. The arrest of Shiv Kumar and Naresh Kumar-petitioners was effected on 26.02.2022 and 08.03.2022, respectively and they are not involved in any other cases. Investigation of the case is complete and challan has been presented in the Court. The conclusion of trial is likely to take some time and no fruitful purpose will be served by detaining the petitioners in further custody.

In such circumstances, sufficient grounds are made out to extend the concession of bail to the petitioners. Accordingly, without making any observation on the merits of the case, both the petitions are allowed and petitioners are ordered to be released on bail, subject to their furnishing bail/surety bonds to the satisfaction of concerned trial Court/Chief Judicial Magistrate/Duty Magistrate.

09.12.2022
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(VIVEK PURI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No