

230 IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

CRM-M-38544-2022

Date of Decision: 14.12.2022

ASHISH

... PETITIONER

VS.

STATE OF HARYANA AND ANOTHER

.. RESPONDENTS

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present : Mr. Sumit Sangwan, Advocate  
for the petitioner.

Mr. Dhruv Sihag, AAG, Haryana.

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VIVEK PURI, J.(ORAL)

Custody certificate has been placed on record.

The petitioner is seeking regular bail in case bearing FIR No. 0110 dated 08.03.2022 under Sections 365 IPC (later on challan presented under Sections 363, 365, 366-A, 120-B IPC and Sections 4, 6, 17, 18 of Protection of Children from Sexual Offences Act, registered at Police Station Babain, District Kurukshetra.

Learned counsel for the petitioner contends that the FIR has been registered at the instance of father of one of the victims alleging that they went missing from the house on 08.03.2022. The victims have been recovered on 25.04.2022. In the statement under Section 164 Cr.P.C., one of the victims had stated that they alongwith co-accused, namely, Vinay Kumar @ Vijay had gone to Rohtak and stayed in a hotel. The petitioners also visited them in a hotel and he alongwith the co-accused Vinay Kumar @ Vijay advised the victims to return back to their house. . There is no allegation to the effect that the petitioner had made any attempt to make physical relations with any of the victim. It has been further stated that victims were sent back but out of fear, they had gone to Chandigarh and other places with other co-accused. It has been further submitted that the statements of the both the victims have been recorded in the trial Court. While appearing in the witness box, the victims have not levelled any allegation with regard to attempt to develop physical relations against the petitioner. The petitioner is in custody for a period of 08 months and 13

days. Though, he has been convicted in a case under Section 6 of POCSO Act but his sentence has been suspended. So far only 05 out of 23 witnesses have been examined. Similarly placed co-accused Vinay Kumar @ Vijay has been granted concession of bail in terms of the order dated 12.10.2022 passed in CRM-M-33024-2022.

Learned State counsel, on instructions from SI Sham Sher, has not disputed the fact that in the statement recorded in the trial Court, the victims have not levelled allegations with regard to any attempt to develop physical relation against the petitioner. However, it has been stated that both the victims were of less than 18 years of age.

Even as per the prosecution version, the allegations against the petitioner are only to the effect that he had joined the victims in a hotel at Rohtak and as per the statement of one of the victims, they were advised by him to return back to their house. There is no allegation indicating that the petitioner had exercised any threat, pressure, allurement or in any manner was party to their enticing from the house. The petitioner is in custody for a period of 08 months and 13 days. So far only 5 out of 23 witnesses have been examined. The similarly placed co-accused, namely, Vijay Kumar @ Vijay has been granted bail by this Court. The conclusion of trial is likely to take some time and no fruitful purpose would be served by detaining the petitioner in further custody.

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

14.12.2022  
smriti

(VIVEK PURI)  
JUDGE

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