

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(213)

CRM-M-38802-2022
Date of Decision: 17.11.2022

Bhupinder Singh

--Petitioner

Versus

State of Punjab

--Respondent

CORAM:- HON'BLE MR. JUSTICE RAJESH BHARDWAJ.

Present:- Mr. G.B.S. Dhillon, Advocate for the petitioner.

Mr. Sandeep Kumar, D.A.G., Punjab.

RAJESH BHARDWAJ.J (Oral)

The present petition has been filed under Section 439 Cr.P.C seeking the benefit of regular bail to the petitioner in case FIR No.138 dated 27.7.2022 under section 354 IPC and section 12 of POCSO Act, registered at Police Station, Sadar Ludhiana, District Police Commissionerate, Ludhiana.

As per factual matrix, a complaint was lodged by the grandmother of the victim, wherein it was alleged that her eldest grand daughter was 14 years of age. On 7.7.2022 at about 3'O clock in the afternoon, she went to purchase powder for her brother from a grocery shop which was being run by Bhupinder Singh i.e. the present petitioner. When she came back she was afraid and on asking she told that shopkeeper finding her alone caught hold her arm and made an attempt to drag her inside the shop. She somehow managed to free herself from Bhupinder Singh. Thereafter they went to Bhupinder Singh, who stated that he did not do anything untoward. A Panchayat was convened and the matter was

amicably resolved. But thereafter again Bhupinder Singh started harassing them. It was apprehended that he would cause any harm to them and a request was made to take legal action against the culprit.

On the basis of the complaint present FIR was registered and petitioner was arrested on 27.7.2022. He approached the learned Fast Track Court under POCSO Act, Ludhiana for grant of bail, however, after hearing the parties, the same was declined vide order dated 4.8.2022. Aggrieved by the same petitioner has approached this court for grant of bail.

Learned counsel for the petitioner has vehemently contended that the petitioner has been falsely implicated in the present case. He submits that petitioner is an ex-service man and is about 60 years of age. Counsel submits that present FIR is totally an abuse of the process of law. It is submitted that both complainant and petitioner are running grocery shops in the village and on account of which there is a rivalry between them. It is submitted that in order to close the shop of the petitioner he has been falsely implicated in the present FIR. Counsel submits that as per allegations made in the FIR the alleged incident occurred on 7.7.2022, however, the FIR in question was registered after a period of 20 days i.e. on 27.7.2022. Counsel submits that false implication of the petitioner is writ large from the very fact that there is no explanation why the complainant kept mum for such a long duration. He submits that petitioner has no criminal antecedents and hence he deserves to be granted the benefit of bail.

On the other hand, learned State counsel submits that there are specific allegations against the petitioner. He submits that victim in the present case is a minor. He submits that the matter between both the parties

was resolved in a Panchayat but thereafter the petitioner again started harassing the complainant and therefore the present FIR was lodged. He submits that even in the statement of the victim recorded under section 164 Cr.P.C she has reiterated the allegations made in the FIR. He further submits that recording of the evidence of prosecution would begin from 5.12.2022. He submits that as per information provided to him petitioner has no criminal antecedents.

I have heard learned counsel for the parties at length and have gone through the records carefully.

Admittedly, petitioner is an ex-service man and is aged about 60 years. He is behind bars since 27.7.2022. The occurrence is of 7.7.2022, whereas the FIR was lodged after 20 days i.e. on 27.7.2022. Investigation in the case is complete, charges have been framed and the case is fixed for prosecution evidence. As per information provided by learned State counsel, petitioner has no criminal antecedents. The veracity of the allegations levelled against the petitioner would be assessed by the Trial Court only upon conclusion of the trial. This court would refrain itself from commenting on the merits of the case, as the allegations and counter allegations would be assessed only after evaluation of the complete evidence to be led by both the sides before the Trial Court. The trial would take sufficiently long time in its conclusion.

In the totality of facts and circumstances and without making any observation on merits, present petition is allowed. Petitioner be enlarged on bail on his furnishing bail/surety bonds subject to the

satisfaction of Trial Court/Duty Magistrate, concerned. Nothing stated herein shall be treated as an expression on the merits of the case.

(RAJESH BHARDWAJ)
JUDGE

17.11.2022

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	Whether Reportable:	Yes/No