

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-42774-2021
Date of Decision: 23.02.2022

Samrat

....Petitioner(s)

Versus

State of Haryana

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

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

Mr. Ranvir Singh Arya, Addl. Advocate General, Haryana.

Through Video Conferencing

JASGURPREET SINGH PURI, J. (Oral)

The present petition has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in FIR No. 0025 dated 22.01.2021 under Section 6 of the Protection of Children from Sexual Offences Act, 2012, registered at Police Station Kanina, District Mahendergarh.

The learned counsel for the petitioner has submitted that the petitioner is a minor and is an accused in the present case alongwith two more co-accused. He further submitted that earlier the petitioner alongwith other two co-accused had moved an application for bail before the learned Juvenile Justice Board under Section 12 of the Juvenile Justice Act and the same has been dismissed vide Annexure P-3. He further submitted that the petitioner is subsequently being tried as adult and is facing trial. He further

submitted that the petitioner is in custody from 22.01.2021 and the matter is fixed for prosecution evidence and considering the custody of the petitioner, he may be considered for the grant of regular bail. He further submitted that in case the accused is a minor, then the benefit granted under Section 12 of the Juvenile Justice Act should be extended to him.

On the other hand, Mr. Ranvir Singh Arya, learned Additional Advocate General, Haryana has submitted that the petitioner is being tried as an adult and the allegations contained in the FIR were serious in nature. He further submitted that as per the complainant-victim who himself was 11 years of age had made allegations which are directly attributable to the petitioner and the other co-accused and the same has been contained in the FIR. He further submitted that the petitioner cannot be granted the benefit of bail under Section 12 of the Juvenile Justice Act, in view of the fact that earlier he had filed an application under Section 12 of the Juvenile Justice Act alongwith other co-accused when he was before the Juvenile Justice Board and his bail application was dismissed but so far as the present case is concerned, the same has been filed under Section 439 of the Code of Criminal Procedure and, therefore, the petitioner is being tried as an adult. He further submitted that even otherwise in the present case the material witnesses have not been examined including the father of the complainant and the doctor. He further referred to Annexure P-4 which is the medical report to contend that in the opinion of the doctor it has been stated that the possibility of sexual intercourse cannot be ruled out, and, therefore, the petitioner is not entitled for the concession of regular bail.

I have heard the learned counsel for the parties.

In the present case, the complainant-victim is a minor and the petitioner is also a minor but being tried as an adult. The material prosecution witnesses have not been examined as yet including the father of the complainant-victim and the doctor. After considering the entire facts and circumstances of the present case, this Court is of the considered opinion that no ground is made out for the grant of bail to the petitioner.

Consequently, the present petition is hereby dismissed.

However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is meant for the purpose of deciding the present petition only.

23.02.2022

rakesh

Whether speaking
Whether reportable

(JASGURPREET SINGH PURI)
JUDGE

: Yes/No
: Yes/No