

**228 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-40031-2022

Date of Decision: 30.11.2022

Nitesh

..... Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Sushil Jain, Advocate, for the petitioner.

Mr. Kirpal Singh Thakur, Asstt. Advocate General, Haryana.

Rajesh Bhardwaj, J. (ORAL)

Prayer in the present petition is for the grant of regular bail to the petitioner in a case FIR No.163 dated 13.04.2022, registered under Sections 354, 354-A, 506 IPC and Section 8 and 12 of POCSO Act, 2012 (Section 354-D IPC added and Section 8 of POCSO Act, 2012 deleted lateron), at Police Station Sadar, Sonipat, District Sonipat.

As per factual matrix of the case, the present FIR was lodged by the prosecutrix herself (name concealed), wherein it was alleged that from the last one year, Nitesh (petitioner) was harassing her with bad intention and teasing her. He used to force her to get married with him. Time and again, he honks the horn of car in front of her house and threatens her to be killed, if she does not marry with him. The complaint was made to register the FIR and to take legal action against the culprit. On the basis of the complaint, the FIR was lodged and investigation commenced. The statement of the victim and that of the witnesses were recorded by the Investigating Agency. The petitioner was arrested on 18.04.2022. He approached the Court of learned Additional Sessions Judge, Fast Track Court, Sonapat for grant of bail, who, after hearing the parties, declined the same vide order dated 28.07.2022.

Aggrieved by the same, the petitioner has approached this Court by way of

filing the present petition for grant of bail.

It has been vehemently contended by learned counsel for the petitioner that the family of the petitioner and that of the prosecutrix are neighbour and on account of some petty dispute, the petitioner has been falsely implicated by the family of the prosecutrix in this case. He submits that from the allegations made in the FIR, it is apparent that the petitioner has committed no offence and the allegations made are too general in nature only in order to make out a case against the petitioner. He submits that the petitioner has no criminal antecedents as he has never been involved in any other case. He further submits that the prosecutrix and her mother have been examined by the trial Court. He has drawn the attention of this Court to the deposition of the prosecutrix made before the trial Court while appearing as PW-2. He submits that the petitioner and the prosecutrix were in consensual relationship and their photographs were also exhibited by the defence during trial, which the prosecutrix duly admitted. He submits that when the prosecutrix and other material witnesses have already been examined by the trial Court, the petitioner is not in a position to influence the prosecution witnesses. He has submitted that contradictions are material in nature and hence false implication of the petitioner is writ large. He submits that the petitioner is a young boy and is languishing in jail for the last about 8 months. He further submits that in the facts and circumstances of the case, the petitioner deserves to be enlarged on bail.

On the other hand, learned State counsel on instructions from ASI Satender has submitted that the prosecutrix was minor being less than 18 years of age. He submits that she has supported the case of the prosecution throughout and thus, complicity of the petitioner is duly

established. He submits that out of total 15 prosecution witnesses, 5 witnesses including the prosecutrix and her mother, have been examined. He has submitted that as per the information received, the petitioner is not involved in any other case except the present case.

Heard.

Evidently, the petitioner is behind bars since 18.04.2022. The prosecutrix and her mother have been duly examined by the trial Court. During the cross-examination, the prosecutrix has deposed that photographs produced were of her with the accused Nitesh, however, the same were clicked inside the school. There is nothing on record showing that the petitioner has any criminal antecedents. The veracity of the allegations would be evaluated by the trial Court only after appreciation of the complete evidence led by both the parties. This Court would refrain itself from commenting anything on the merits of the case, however, considering the prayer for grant of bail to the petitioner, I am of the view that learned counsel for the petitioner has been able to make out a case for grant of regular bail to the petitioner. The trial would take sufficiently long time for its conclusion.

Accordingly, the present petition is allowed and the petitioner is ordered to be released on bail to the satisfaction of the concerned trial Court/Duty Magistrate.

Nothing said herein shall be treated as an expression of opinion on the merits of the case.

30.11.2022

sharmila

Whether Speaking/Reasoned :
Whether Reportable :

(RAJESH BHARDWAJ)
JUDGE

Yes/No
Yes/No