

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(221)

CRM-M-46665-2021
Date of Decision: 17.08.2022

Pankaj Gupta

--Petitioner

Versus

State of Haryana

--Respondent

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

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

Mr. Neeraj Poswal, A.A.G., Haryana.

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.77 dated 2.4.2021 under sections 6 and 10 of POCSO Act, registered at Police Station, City Gurugram, district Gurugram.

As per factual matrix, a complaint was lodged by a school teacher, wherein it was alleged that some of the parents reported about their children coming late in the evening after school. She inquired about the same from the girl students and came to know from them that they go to one Pankaj Gupta i.e. the present petitioner, owner of Devdoot Food Bank. It was told by the students that he allures the girl students in many ways. It also came to the knowledge of the complainant that Pankaj Gupta had outraged the modesty of some girl students. The complaint was lodged to register the FIR and take legal action against the culprit.

On registration of the present FIR, investigation commenced and the present petitioner was arrested on 8.4.2021. The statements of the

students-victims were recorded under section 164 Cr.P.C. The petitioner approached learned Fast Track Court, Gurugram for grant of bail, however, after hearing the parties, the same was declined vide order dated 12.10.2021. Aggrieved by the same petitioner has approached this court for grant of bail.

Learned counsel for the petitioner vehemently contends that petitioner has been falsely implicated in the present case. He submits that the petitioner is running a shop in front of the school where free food is distributed by him to the needy people. He submits that on account of the same the school had a grudge against the petitioner and on number of occasions the petitioner was asked to remove his shop but the petitioner did not accept the same. Counsel submits that the present FIR has been lodged in a clandestine manner against the petitioner. He submits that though some of the students deposed against the petitioner in their statements recorded under section 164 Cr.P.C but the same were under the pressure of the school authorities. He submits that thereafter all these alleged victims and their parents were examined by the Trial Court and all of them have not supported the case of prosecution and thus they were declared hostile. He submits that once the victims and their parents have not supported the case of the prosecution, false implication of the petitioner is writ large. Counsel submits that petitioner has no criminal antecedents and majority of the prosecution witnesses already stand examined by the Trial Court and thus there is no possibility whatsoever of the petitioner of influencing the witnesses. It is submitted that petitioner is behind bars for the last more than a year.

On the other hand, learned State counsel submits that there are specific allegations against the petitioner levelled by the minor victim students. He submits that after the medical examination of a victim student, doctor opined regarding the sexual assault upon the victim. However, State counsel candidly acknowledges that the material witnesses already stand examined and the victims as well as their parents have not supported the case of the prosecution and hence they have been declared hostile by the learned Trial Court. He submits that in all there are 47 prosecution witnesses out of which 40 already stand examined. He submits that 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 behind bars since 8.4.2021. The victim students as well as their parents have not supported the case of the prosecution and hence they have been declared hostile. Out of the 47 prosecution witnesses 40 including the material witnesses already stand examined. Obviously, the possibility of the petitioner influencing the witnesses no more survives in this case. As per submission made 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 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 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

17.08.2022

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