

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(105)

CRM-43584-2022, CRM-43586-2022
IN/& CRM-M-42976-2022

Date of decision: 07.12.2022

Vijay Shankar Pandey

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Gautam Dutt, Advocate
for the petitioner.

Ms. Mahima Yashpal, DAG, Haryana.

...

SUVIR SEHGAL, J. (Oral)

CRM-43584-2022

Noticing the prayer made in the application, it is allowed.

Hearing of the main case is preponed from 10.01.2023 to today
and it is ordered to be taken on Board.

CRM-43586-2022

Application is allowed as prayed for.

Testimony of the minor victim as well as her mother, who have
been examined as PW-1 and PW-2, are taken on record as Annexure P-4
and P-5, respectively.

CRM-M-42976-2022

Instant petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 (for short “the Code”) for grant of regular bail in FIR No.0474 dated 08.08.2022, registered for offences under Section 354-A of the Indian Penal Code, 1860 and 12 of the Protection of Children from Sexual Offences Act, 2012 (for short “POCSO Act”), at Police Station Mujesar, District Faridabad, Annexure P-1.

Case of the prosecution is that FIR, Annexure P-1, has been registered on the statement of 16½ year old girl (for short “the victim”) on the allegation that on 07.08.2022 at about 07.30 p.m., when she was alone at home, her neighbour, Vijay Shankar Pandey, present petitioner, standing at the window of his house, indulged in lewd behavior and made vulgar gestures.

Counsel for the petitioner has urged that the petitioner, who is a 60 year old man, has been falsely embroiled in the criminal case as he is not on cordial terms with the family of the victim, who is his neighbour. He has argued that in her statement recorded on 08.08.2022 under Section 164 of the Code, victim stated that the complaint had been lodged due to some misunderstanding. He submits that the victim has been examined and in her cross-examination, Annexure P-4, she has stated that the petitioner neither made any vulgar gestures nor he indulge in any objectionable act while referring to the testimony of victim's mother, Annexure P-5, he submits that she has not supported the case of the prosecution. He asserts that the petitioner, who is a respectable man, is in custody since 08.08.2022 and has a clean past, deserves to be released on bail, as the star prosecution

witnesses have been examined.

Per contra, State counsel has opposed the petition and upon instructions, from ASI, Dinesh, she submits that the victim has stood by her version in examination-in-chief. She submits that complaint was lodged with by the Police Helpline in the evening of 07.08.2022, which culminated in the registration of FIR, Annexure P-1, in the early morning of hours of the next day. As per her further instructions, 10 more witnesses are to be examined by the prosecution.

Having considered the submissions of the counsel for the parties, this Court is prima facie of the view that the involvement of the petitioner in the alleged crime would be adjudicated by the Trial Court. Considering the nature of allegations, length of custody and the nascent stage of trial, this Court is inclined to accept the prayer made in the petition.

Without adverting of the merits or demerits of the arguments addressed by counsel for the parties, petition is allowed. Petitioner is ordered to be released on bail during the pendency of trial, on furnishing adequate bail/surety bonds to the satisfaction of the Area Magistrate/Duty Magistrate concerned.

It is clarified that nothing said hereinabove shall be construed to be an expression of opinion on the merits of the case.

07.12.2022
Pardeep

(SUVIR SEHGAL)
JUDGE

Whether Speaking/Reasoned	Yes
Whether Reportable	Yes