

CRM-M-1295-2023(O&M) 2023:PHHC:163892

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IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-1295-2023(O&M)
Date of decision:-20.12.2023

Rahul
... Petitioner

Versus

State of Haryana and another
... Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr.Kamal Chaudhary, Advocate
for the petitioner.

Mr.Munish Sharma, DAG, Haryana.

SUVIR SEHGAL, J. (ORAL)

CRM-53657-2023

Application is allowed, as prayed for.

Annexures P6 and P7 are taken on record.

CRM-M-1295-2023

1. This second petition has been filed under Section 439 Cr.P.C.

seeking grant of post-arrest bail in:-

FIR No.	Dated	Police Station	Sections
192	07.10.2021	Women Ballabgarh, District Faridabad	12 of POCSO Act and 3(1)(W) (ii) of SC/ST Act

2. Case of the prosecution is that FIR, Annexure P1, has been registered on the statement of a 12 year old girl (for short – “the minor prosecutrix”) stating that she is studying in 7th class in a Government school. At about 10:00 a.m., when she went to the village temple with her younger brother to offer prayers, she was assaulted by co-villager, Rahul, who fled from the spot when a woman reached there on her raising an alarm. She confided in her parents and then lodged the complaint.

3. Counsel for the petitioner submits that the petitioner has been accused and charge-sheeted for offence under Section 12 of the POCSO Act, which entails a maximum punishment of three years. He urges that the petitioner is in custody since 07.11.2021 and the minor prosecutrix as well as her mother have deposed but there are inconsistencies in their evidence. He submits that after the withdrawal of the previous petition in December 2022, the medical officers have also been examined and their testimony is Annexures P6 and P7. He submits that although it had been alleged that the minor prosecutrix was accompanied by her brother and a woman came on the spot but both the said persons have not been named as witnesses by the prosecution. He asserts that the petitioner, who has clean antecedents, deserves to be enlarged on bail.

4. *Per contra*, learned State counsel upon instructions from SI Alpha and by making a reference to the reply filed by way of affidavit of Assistant Commissioner of Police, Women Safety, Faridabad, contends that the minor prosecutrix as well as her mother have supported the case of the prosecution. He submits that as the evidence of both the star witnesses is of a sterling

quality, it does not require any corroboration and is sufficient to convict the accused. Still further, he has instructions to state that nine out of twenty three prosecution witnesses have been examined.

5. I have heard counsel for the parties and considered their respective submissions.

6. The petitioner has been in custody for more than 25 months and the trial is not even half way. The allegations levelled against the petitioner and the role ascribed to him would be determined by the trial Court on the basis of the evidence adduced by the prosecution. Noticing the length of custody of the petitioner, his clean antecedents and stage of trial, this Court is inclined to accede the prayer made in the petition.

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

8. Any observation made hereinabove shall not be construed to be an expression of opinion on the merits of the case.

(SUVIR SEHGAL)
JUDGE

20.12.2023

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Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No