

CRM-M-7804-2023

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

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CRM-M-7804-2023

Date of Decision: 22.03.2023

Sonu Singh Alias Sony

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Mr. Narender Singh Kamboj, Advocate for the petitioner

Mr. Shiva Khurmi, AAG, Punjab
(assisted by ASI Jasveer Singh)

JAGMOHAN BANSAL, J. (ORAL)

1. The petitioner, through instant petition under Section 439 Code of Criminal Procedure, 1973 (for short 'Cr.P.C.'), is seeking regular bail in FIR No.0243 dated 10.12.2022 under Sections 354 of Indian Penal Code, 1860 (for short 'IPC') and Sections 7 & 8 of Protection of Children from Sexual Offences Act (Amended), 2012 (for short 'POCSO Act') registered at Police Station Kotakpura, District Faridkot.

2. The case of the prosecution is that petitioner embraced prosecutrix who is his neighbourer. The mother of the prosecutrix lodged FIR alleging that her neighbourer (petitioner) had embraced her daughter and teased her.

3. Learned counsel for the petitioner, *inter alia* contends that it is a case of misunderstanding between the families. The petitioner has not committed the alleged offence. Both the families have entered into a Panchyati compromise and for the said purpose a deed dated 20.02.2023 has been executed. The petitioner is in custody since 10.12.2022 and he is not involved in any other offence. The petitioner has been wrongly implicated in the commission of alleged offence. The petitioner is permanent resident of District Faridkot. The petitioner has deep roots in the society. There is no possibility of flee from justice.

4. Custody certificate dated 21.03.2023 is taken on record. Registry is directed to tag the same at appropriate place.

5. Learned State counsel submits that police report has already been filed and charges stand framed. He further submits that there are 15 witnesses and no one has been examined. He confirms that parties have entered into Panchayati compromise.

6. In the case in hand, the petitioner is accused of commission of offence punishable under Section 354 IPC and Section 8 of POCSO Act. The maximum sentence prescribed under Section 354 IPC as well Section 8 of POCSO Act is 5 years. The petitioner is in custody since 11.12.2022 and he is not involved in any other offence. Nothing is to be recovered from him and investigation stands completed. The parties have entered into Panchayati compromise. The Trial Court yet has to return definite findings on the disputed issues. There are 15 prosecution

witnesses and till date none has been examined, thus, there is abysmally low possibility of conclusion of trial in near future. As prosecution has right to arrest, investigate the matter and restrain an accused from manipulating or winning over witnesses, similarly accused in view of Article 21 of the Constitution of India has right to defend himself and put forth his stand which cannot be possible while in custody. The prosecution has not led any convincing/plausible documentary or oral evidence indicating possibility of petitioner being flee from justice or tampering the evidences or winning over/threatening the witnesses.

7. In view of afore-stated facts and circumstances, this Court is of the considered opinion that present petition deserves to be allowed and accordingly allowed. The petitioner is ordered to be released on bail subject to conditions as may be imposed by Trial Court/Illaq/Duty Magistrate concerned.

8. Nothing observed hereinabove shall be construed as expression of opinion of this Court on merits of the case and Trial Court shall proceed without being prejudiced by observations of this Court.

(JAGMOHAN BANSAL)
JUDGE

22.03.2023
Mohit Kumar

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No