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IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M No. 9056 of 2023
Date of Decision: 31.07.2023

Shokin

... Petitioner

Versus

State of Haryana

... Respondent

CORAM:- HON'BLE MR. JUSTICE SANJIV BERRY.

Present:- Mr. Vikas Kumar Gupta, Advocate
for the petitioner.

Mr. Surinder Singh, Asstt. A.G., Haryana

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SANJIV BERRY, J. (ORAL)

The instant petition has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in FIR No.643 dated 18.12.2020 under Section 6 of POCSO Act read with Section 377 IPC and also Sections 363, 367 of IPC (added vide charge dated 15.03.2021) registered at Police Station Quilla, District Panipat (Annexure P-1).

2. It is, *inter alia* contended by learned counsel for the petitioner that the petitioner is innocent and has been falsely implicated in this case. He submitted that the petitioner has been in custody for 2 years and 7 months and as such he prays for grant of bail to the petitioner.

3. The learned State counsel has filed custody certificate, the same is taken on record.

4. Learned State Counsel has vehemently opposed the bail application by arguing that the petitioner is alleged to have committed penetrative sexual assault upon minor victim aged about 9 years and the victim had also suffered statement under Section 164 Cr.P.C to substantiate his version. He further submitted that even the report of the FSL also established the presence of human semen and blood on the pajama of the victim. He submitted that considering the heinous nature of crime petitioner does not deserve concession of bail.

5. Heard learned counsel for the parties.

6. After considering the rival contentions and perusing the record, it transpires that the present case was registered on the allegations that the petitioner had sexually assaulted the victim aged about 9 years after alluring him to his room on the pretext of giving him cricket bat and on the basis of the complaint given in this regard by the father of the victim, FIR under Section 377 IPC read with Section 6 of POCSO Act was registered and the petitioner was arrested on 20.12.2020.

7. After presentation of challan the petitioner has been charged with offence under Section 377 IPC and Section 6 of POCSO Act. Section 6 (1) of the POCSO Act reads as under:-

“ 6. Punishment for aggravated penetrative sexual assault.- (1). Whoever, commits aggravated penetrative sexual assault, shall be punished with rigorous imprisonment for a term which shall not be less than ten

years but which may extend to imprisonment for life and shall also be liable to fine, or with death.”

8. As per status report filed by the State, out of the 21 witnesses cited by the prosecution 11 witnesses have been examined and 2 witnesses have given up.

9. Therefore, considering the serious and heinous nature of the crime committed by the petitioner on the victim aged about 9 years, I find no case is made out in favour of the petitioner for grant of regular bail and as such the present petition is hereby dismissed.

10. Any observation made above shall not be construed as opinion of this Court on the merits of the case and is only meant for the purpose of decision of present petition.

(SANJIV BERRY)
JUDGE

31.07.2023

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| i) | Whether speaking/reasoned? | Yes/No |
| ii) | Whether reportable? | Yes/No |