

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

220

CRM-M-12068-2023

Date of Decision: 18.04.2023

Amit Kumar Alias Amit Goel

...Petitioner

Versus

State of Haryana

...Respondent

**CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL**

Present:- Mr. Rakesh Nehra, Senior Advocate with  
Mr. Amit Kumar Jain, Advocate for the petitioner

Ms. Trishanjali Sharma, DAG, Haryana

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**JAGMOHAN BANSAL, J. (ORAL)**

1. The petitioner, through instant petition under Section 438 of Code of Criminal Procedure, 1973 (for short 'Cr.P.C.') is seeking grant of anticipatory bail in FIR No.44 dated 27.02.2023 under Sections 10 & 12 of Protection of Children from Sexual Offences Act, 2012 (for short 'POCSO Act') registered at Police Station Buriya, District Yamunanagar.

2. On 15.03.2023, the following order was passed:-

*“Learned State counsel submits that in the FIR, it is incorrectly mentioned that alleged incident took place inside the class room whereas as per statements of the victims, the incident took place outside the class room.*

*I have gone through statements of victims which learned State counsel has produced during the course of hearing. The statements stand returned to State counsel.*

*From the perusal of statements, this Court is of prima facie opinion that offence under Section 10 of POCSO Act is not made out and maximum sentence under Section 12 of POCSO Act is three years.*

*Having considered contents of the FIR, role attributed to the petitioner, gravity of offence, sentence prescribed for commission of alleged offence, arguments put forth by the petitioner and law enunciated by Hon'ble Supreme Court in Thana Singh v. Central Bureau of Narcotics, (2013) 2 SCC 590, Arnab Manoranjan Goswami V. State of Maharashtra, (2021) 2 SCC 427, Satender Kumar Antil V. CBI (2022) 10 SCC 51, Siddharam Satlingappa Mhetre V. State of Maharashtra & Ors., 2010 SCC OnLine SC 1375, Shri Gurbaksh Singh Sibbia V. State of Punjab (1980) 2 Supreme Court Cases 565, Arnesh Kumar V. State of Bihar (2014) 8 SCC 273, this Court is of the prima facie opinion that petitioner deserves protection from arrest. Accordingly, at the first instance, the petitioner is directed to appear before investigating officer on 21.03.2023 and thereafter as directed by IO. In the event of arrest, the petitioner shall be admitted to interim bail on furnishing of bail/surety bonds to the satisfaction of investigating/arresting officer. The petitioner shall co-operate the investigating officer.*

*If the arresting officer does not permit the petitioner to join the investigation, the petitioner would appear before the learned Illaqa Magistrate who would then summon the arresting officer and direct him to join the petitioner in investigation, in terms of the order of this Court.*

*Adjourned to 18.04.2023.*

*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.”*

3. Learned State counsel submits that petitioner has joined investigation and no custodial interrogation is required.

4. In view of the above facts and circumstances, the petition is allowed and the interim bail granted to the petitioner vide order dated 15.03.2023 is made absolute subject to the conditions envisaged under Section 438(2) of Cr.P.C.

5. If the petitioner or his family members/associates make any attempt to threat/intimidate the witnesses in the present case, the State would be at liberty to move an application for cancellation of bail granted by this order.

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**

**18.04.2023**  
*Mohit Kumar*

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|----------------------------------|---------------|
| <i>Whether speaking/reasoned</i> | <i>Yes/No</i> |
| <i>Whether reportable</i>        | <i>Yes/No</i> |