

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

208

CRM-M-15362-2023

Date of Decision: 16.10.2023

Abhishek @ Bhusa

.... Petitioner

Versus

State of Punjab

.... Respondent

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present: - Mr. Vinay Kumar, Advocate for the petitioner.

Mr. Jaswinder Singh Arora, DAG, Punjab.

NIDHI GUPTA, J. (ORAL)

The petitioner has filed the present 1st petition under Section 439 of the Code of Criminal Procedure, 1973, for grant of regular bail in case FIR No. 149 dated 15.07.2021 (Annexure P-1) registered under Sections 354 and 354-A IPC and Section 8 of the Protection of Children from Sexual Offences Act, 2012 at Police Station Civil Lines Batala, District Batala.

The aforesaid FIR was registered on the basis of statement of of the victim which is reproduced as under:-

“.....Stated that I am resident of above mentioned address and my date of birth is 16-11-2005. We are seven sisters and one brother, out of them five are married and two are unmarried. My brother Ashish aged about 14 years is youngest of all. I am studying in 10th class at Batala and due to lockdown, I am attended the class online. On 13.07.2021 at about 12:20 PM after attending the class online, I was cleaning my house. Due to cut off of electricity on Tuesday, my father was also present at home. After the cleaning the house, I went to throw the garbage outside of my house, after throwing the garbage in the empty plot while coming back

then at about 12:30 PM, Abhishek @ Bhusa son of Jagir Singh resident of Mohalla Ram Bagh, Bauli Inderjit was standing at T point. When I reached near to him, he caught hold my arms and hairs and pulled towards him. He kissed me and started touching my body parts. I opposed and raised alarm and then my father came out from the house, who rescued me from Abhishek @ Bhusa. He also abused my father and beaten him. Legal action be taken against him.....”

Learned counsel for the petitioner, *inter alia*, submits that the FIR in the present case was lodged on the basis of statement of the victim, who was 16 years old at the time of incident. It is submitted that the sole allegation against the petitioner is that he had kissed the victim. It is further submitted that the victim as PW-1 in her testimony has not supported the prosecution case and turned hostile. It is also submitted that the allegations made in the FIR are false and fabricated. The petitioner has been in custody since 23.01.2023. The trial is likely to take long time. No useful purpose will be served by further detention of the petitioner in custody. Thus, it is prayed that petitioner may be released on regular bail.

Learned counsel for the State on instructions from ASI Palwinder Singh, admits that the victim has turned hostile before the trial Court. Learned counsel for the State submits that custody certificate of the petitioner is not available today, however, admits that the petitioner has been in custody since 23.01.2023.

Having heard learned counsel for the parties, but without commenting on merits of the case, however, keeping in view the totality of the facts and circumstances of the case including the fact that petitioner is in custody since 23.01.2023, conclusion of trial will take considerable time and no useful purpose would be served by further

detention of the petitioner, the present petition is **allowed**.

The petitioner-Abhishek @ Bhusa S/o Jagir Singh, is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate, concerned.

However, it is made clear that nothing stated above shall be construed as an expression of opinion on the merits of the case.

16.10.2023
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(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No