

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

205

Criminal Misc. No. M-20928 of 2023

Date of decision :-21.09.2023

Parveen Kumar

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM:- HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Ivneet Singh Pabla, Advocate
for the petitioner.

Mr. Brijesh Sharma, AAG, Haryana
Assisted by P/SI Prince, P.S. KUK.

NIDHI GUPTA J. (Oral)

Prayer in this petition filed under Section 439 Cr.P.C. is for grant of regular bail to the petitioner during pendency of the trial in case FIR No.544 dated 08.10.2022, under Sections 328, 363, 366-A, 506, 34, 120-B IPC and Sections 4 and 17 of Protection of Children from Sexual Offences Act, 2012, registered at Police Station Kurukshetra University, District Kurukshetra.

The present FIR, registered on the complaint of complainant Gulab Singh/father of the victim, reads as under :-

“Submitted that I am Gulab singh S/o Rulia Ram R/o Dub kheri, Distt. Kurukshetra and do labour work. I have four sons and my daughter namely Sonam who is 17 years old studies in 10+2 class in Government School. A boy named Parveen s/o Satpal R/o Village Dhabkheri harassing my

daughter for last two years. Last week he gave my daughter a phone, which I came to know later on, he used to talk to my daughter through mobile no.9996942316 and 7404542316. Yesterday, on 7.10.2022, around 10.15 p.m, when I was not at home, he with threat, forcefully taken my daughter to nearby fields and committed wrong thing with my daughter. When we went in search of my daughter and also called at 112 then, he drop my daughter in front of our gate, at that time, two more person of our village namely Shamsheer and Sonu was with him. Today on 8.10.2022, I brought my daughter with me to police station. Legal action be taken against above mentioned Parveen and medical of my daughter be conducted.”

Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present matter. It is submitted that the petitioner was 23 years of age and the victim was 17 years of age at the time of alleged incident. It is submitted that the petitioner and the victim were friends. No such incident, as narrated in the FIR, registered on the statement of father of the victim, has ever happened. Learned counsel submits that though the victim has named the petitioner in her statement under Section 164 Cr.P.C., however, she, as PW2, in her testimony, recorded before the trial Court, has categorically stated that she had a fight with her parents, therefore, she went to her aunt's house and the accused persons including the petitioner herein had done nothing wrong with her and that she had never mentioned that accused Parveen/petitioner herein had been harassing her for the last two years or that he had obtained her mobile number. Learned counsel submits that as per MLR, there are no

injury marks on the person of victim. He further submits that even the complainant, as PW4, has turned hostile. The petitioner is stated to be in custody since 09.10.2022 and the material witnesses already stand examined.

Learned State counsel has filed the custody certificate dated 20.09.2023, the same is taken on record. Perusal of the same reveals that the petitioner is in custody as an under-trial since 11 months and 11 days. Learned State counsel submits that the victim has specifically named the petitioner in her statement under Section 164 Cr.P.C.. However, he admits that the complainant and the victim turned hostile before the trial Court. Learned State counsel further points out that out of total 23 prosecution witnesses, only seven have been examined so far.

I have heard learned counsel for the parties and gone through the case file carefully.

Without commenting on the merits of the case, however, keeping in view the totality of facts and circumstances of the case, including the fact that the trial of the case is likely to consume considerable time as out of total 23 prosecution witnesses, only 07 witnesses have been examined so far; the material witnesses i.e. complainant and the victim have already been examined; and keeping in view the custodial period of the petitioner; and the fact that there is no other case pending against him, his further custody may not be justified. Therefore, without meaning any expression of opinion on the merits of the case, it is ordered that the petitioner-Parveen Kumar s/o Satpal be released on regular bail subject to his furnishing

requisite bail bonds/surety bonds to the satisfaction of the trial Court/Duty Magistrate, concerned.

The petition is allowed.

September 21, 2023
Vijay Asija

(NIDHI GUPTA)
JUDGE

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