

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

205

CRM-M-21499-2023

Date of Decision: 01.09.2023

Yudhvir Singh

....Petitioner

V/s

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE NIDHI GUPTA

Present: Mr. Sumeet Goel, Senior Advocate, with
Mr. Ajay Kalra, Advocate, for the petitioner.

Mr. Brijesh Sharma, AAG, Haryana.

NIDHI GUPTA, J. (Oral)

1. Prayer in the present petition under Section 439 Cr.P.C. is for grant of regular bail to the petitioner in case FIR No.0039, dated 06.02.2023 (Annexure P-1) under Section 12 of the Protection of Children from Sexual Offence Act, 2012 and under Section 67A of the Information Technology (Amendment) Act, 2008 and Section 354-D and 506 IPC, registered at Police Station Dadri City, District Charkhi Dadri.
2. The FIR is registered on the statement of mother of the victim, which reads as follows:-

“It is submitted that I, Kavita Wife of Bijender, am resident of City Charkhi Dadri. My daughter Riya studies in Government Model Sanskriti Senior Secondary School, Charkhi Dadri. In this school, Yudhvir Singh is PGT Hindi Teacher who is resident of Village Kalali, Charkhi Dadri. He is sending wrong messages and making calls to my daughter late in the night and he recharged the phone number of my daughter as well despite being refused to do so. On seeking my daughter alone in the School, the accused said that he will give phone to my daughter and to which my daughter said that she will inform the Principal. To this the accused reply that no one can do anything to him as he has been given security guard by

the Government. And if she (daughter) informs her parents about the same, then he (accused) will get her picked and her family members will face dire consequences. My daughter Riya is studying on 9th Class. The age of my daughter is 15 years. Youdhvir is PHT teacher and his mobile number from which the messages have been sent is 7082705780 and the messages have been sent at the mobile number of father of Riya which is 9992448193. The messages received at this number are attached with the complaint. Sd/- Kavita wife of Bijender...”

2. Learned Senior Counsel appearing for the petitioner *inter alia* submits that the petitioner is scheduled caste teacher, who was posted at the school where the victim was a student of Class 9. The petitioner is 14 years of age and the only allegation against the petitioner is that he was sending wrong messages to the victim late at night.

3. Learned Senior Counsel refers to the final report presented under Section 173 Cr.P.C (Annexure P-12), wherein text messages exchanged between the petitioner and the victim were formed part of the said *challan*, to submit that no sexual explicit messages were sent by the petitioner and therefore, the allegations in the FIR are false and fabricated and the petitioner has been falsely implicated in the present case.

4. Learned Senior Counsel further submits that the provisions of Section 65B of the Information Technology Act have not been complied with, inasmuch as the screen shots have been attached with the *challan*; and even no call log has been attached as the petitioner has never called the victim.

5. Learned State counsel has produced in Court today custody certificate, dated 30.08.2023 in respect of the petitioner, which is taken on record. As per which, the petitioner has been in custody for 6 months and 23 days as undertrial.

6. Learned State counsel, on instructions from ASI Kuldeep, No.34/DDR, posted at Police Stat City Dadri, submits that out of 18 witnesses, 5 have been examined, including the prosecutrix and the victim who have supported the prosecution case in their testimony.
7. Heard learned counsel for the parties.
8. Without commenting on the merits of the case, however, keeping in view the totality of the facts and circumstances of the case, including the fact that custody certificate reveals that the petitioner has no criminal antecedents and there is no other criminal case pending against him, and the fact that the material witnesses stand examined, and that the trial would take long time to conclude, and no useful purpose would be served by keeping the petitioner behind the bars, the present petition is allowed.
9. Petitioner-Yudhvir Singh son of Zorawar Singh is ordered to be released on regular bail on his furnishing requisite bail bonds/surety bonds to the satisfaction of the trial Court/Duty Magistrate, concerned.
10. However, it is made clear that nothing stated above shall be construed as an expression of opinion on the merits of the case.

September 01, 2023
vcgarg

(NIDHI GUPTA)
JUDGE

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