

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARHCRM-M 21264/2023
Date of decision: 25.07.2023.

Bansi Lal

.....Petitioner

Vs.

State of Haryana

.....Respondent

CORAM HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Amit Singla, Advocate for the petitioner.

Mr. Brijesh Sharma, AAG Haryana.

Nidhi Gupta, J.

In this first petition under Section 439 Cr.PC, petitioner seeks regular bail in case FIR NO.22 dated 1.2.2023 under Section 354A(1) IPC and Section 10 of POCSO Act,2012, PS Bhattu Kalan, District Fatehabad.

FIR in this case was registered on the statement of Sugna mother of prosecutrix, which reads as under:-

"It is submitted that I Sugna wife of Satbir is resident of Kirdhan. I do household work. I am having three children, one boy and two daughters. My youngest daughter x is aged 8 years. On dated 31-01-2023 in have sent her for bringing battery from my neighborhood. When my daughter was coming back then I heard the weeping voice of my daughter in the street. Then In the street my daughter was in lap of Bansi son of Mahabir who is deaf and dumb since birth and he ran away after seeing me. Then I asked my daughter then

my daughter told that Gunga has touched my private part after entering his hand in my pant. Today we have satisfied it in full. He has committed wrong act with my daughter. Strict legal action may kindly be taken against Bansi son of Mahabir resident of Kirdhan. SD Sugna “.

Ld. counsel for the petitioner submits that the petitioner has been falsely implicated in the matter. It is submitted that the FIR was registered on the complaint of mother of the prosecutrix, however, Statement recorded by the prosecutrix under Section 164 Cr.PC is different from the statement of the complainant. Ld. Counsel vehemently submits that the prosecutrix has not corroborated the statement of the complainant. It is further submitted that the petitioner is in custody since 3.3.2022.

Per contra, ld. State counsel opposes the prayer made on behalf of the petitioner and submits that the victim was only 8 years old at the time of alleged incident and petitioner was 28 years old at that time. Ld. State counsel refers to the deposition of prosecutrix (Annexure R1), as follows:

“Stated that one day in the evening, my mother asked me to bring a torch when I was coming in the street then accused Bansi Lal today present in the Court (the accused kept behind the wooden veil and shown to the witness for limited purpose of identification) lifted me in his lap and put his hand on my stomach as well as my private part. At the same time my mother came there and accused left me. Police recorded my statement Ex.P4 in the presence of legal-aid-counsel, which bears my signature at point 'A'”.

After hearing ld. counsel for the parties and keeping in view the totality of facts and circumstances, no case for grant of regular bail is made out at this stage.

Petition stands **dismissed**.

25.07.2023.
Joshi

(Nidhi Gupta)
Judge