

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

223

CRM-M-25933-2023

Date of Decision: 26.05.2023

Sonu Ram

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Mr. Ajay Arora Bharti, Advocate for
Mrs. Divya Narula, Advocate for the petitioner

Ms. Priyanka Sadar, AAG, Haryana

JAGMOHAN BANSAL, J. (ORAL)

1. The petitioner, through instant petition under Section 439 of Code of Criminal Procedure, 1973 (for short 'Cr.P.C.') is seeking concession of regular bail in FIR No.110 dated 12.05.2022 under Sections 354-A, 363, 366-A of Indian Penal Code, 1860 (for short 'IPC') and Section 8 of Protection of Children from Sexual Offences Act, 2012 (for short 'POCSO Act') registered at Police Station Odhan, District Sirsa.

2. The case of the prosecution is that father of the prosecutrix lodged a complaint alleging that he is a labourer and his daughter aged 17 years and 4 months has left home without informing anyone. He has suspicion that Sonu has allured his daughter. She had taken away Rs.20,000/- and documents while leaving home. The prosecutrix was recovered and in her statement under Section 164 Cr.P.C, she has stated

that petitioner touched her with bad intention while she was sitting on motorcycle with him.

3. Learned counsel for the petitioner, *inter alia* contends that there is no allegation of rape against the petitioner and prosecutrix in her statement under Section 164 Cr.P.C. has accepted that she had left home at her own accord. She has only made allegation that petitioner has touched her while she was sitting behind the petitioner on his motorcycle. The petitioner is in custody since 20.05.2022 and he is not involved in any other offence. The petitioner has been wrongly implicated in the commission of alleged offence. The petitioner is permanent resident of District Sirsa. The petitioner has deep roots in the society. There is no possibility of flee from justice.

4. Custody certificate dated 25.05.2023 is taken on record. As per custody certificate, the petitioner is in custody since 21.05.2022 and he is not involved in any other offence.

5. Learned State Counsel submits that police report has already been filed and charges stand framed. She further submits that out of 22 witnesses none has been examined. The petitioner is involved in the commission of grave offence, thus, no leniency is warranted and release of petitioner would hamper the trial.

6. The petitioner is in custody since 21.05.2022 and he is not involved in any other offence. Police report under Section 173 of Cr.P.C.

stands filed and charges stand framed. The prosecutrix in her statement under Section 164 Cr.P.C. has accepted that she left home at her own accord. The Trial Court yet has to return definite findings on the disputed issues. There are 22 prosecution witnesses and till date none has been examined, thus, there is abysmally low possibility of conclusion of trial in near future. As prosecution has right to arrest, investigate the matter and restrain an accused from manipulating or winning over witnesses, similarly accused in view of Article 21 of the Constitution of India has right to defend himself and put forth his stand which cannot be possible while in custody. The prosecution has not led any convincing/plausible documentary or oral evidence indicating possibility of petitioner being flee from justice or tampering the evidences or winning over/threatening the witnesses.

7. In view of afore-stated facts and circumstances, this Court is of the considered opinion that present petition deserves to be allowed and accordingly allowed. The petitioner is ordered to be released on bail subject to conditions as may be imposed by Trial Court/Illaq/Duty Magistrate concerned.

8. 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.

9. 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

26.05.2023
Mohit Kumar

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