

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(218)

2023:PHHC:077972
CRM-M-26162-2023(O&M)
Date of Decision: 29.05.2023

Devanshu

--Petitioner

Versus

State of Haryana

--Respondent

CORAM:- HON'BLE MR. JUSTICE RAJESH BHARDWAJ.

Present:- Mr. S.S. Tiwari, Advocate for the petitioner.

Mr. Kirpal Singh, AAG, Haryana.

RAJESH BHARDWAJ.J (Oral)

CRM-23500-2023

Application is allowed as prayed for.

Main Case

The present petition has been filed under Section 439 Cr.P.C seeking the benefit of regular bail to the petitioner in case FIR No.260 dated 29.4.2022 under sections 3(1)(R) 3(1)(ZA)(D) of SC/ST Act, section 75 of Juvenile Justice (Care and Protection of Children) Act and section 8 of POCSO Act (later on section 10 of POCSO Act replaced section 8 of POCSO Act), registered at Police Station, Gharaunda, District Karnal.

As per factual matrix, a complaint was lodged by Joginder Singh son of Dalip Singh and Rajesh Kumar son of Randhir Singh, wherein it was alleged that they belonged to S.C category and their children studied in the Govt. School of the village. It was alleged that Devanshu Verma i.e. the present petitioner came to the school for J.B.T training as an apprentice. He promoted casteism amongst the students by creating a rift in the children belonging to upper castes and that from the S.C community. It was

also alleged that he committed the offence of sexual assault on one of the students who belonged to the S.C community. On the basis of these allegations a request was made to take legal action against the culprit.

On the basis of the complaint, present FIR was lodged and investigation commenced. Petitioner was arrested on 9.5.2022. He approached the learned Fast Track Court, Karnal for grant of bail, however, after hearing the parties, the same was declined vide order dated 4.8.2022. Aggrieved by the same petitioner approached this court for grant of bail by way of filing CRM-M-28084-2022, however, the same was allowed to be withdrawn by this court vide order dated 8.7.2022. Hence, this second petition.

Learned counsel for the petitioner vehemently contends that petitioner has been made a scapegoat in the present case. He submits that petitioner is a govt. teacher and on account of deliberated allegations he has been roped in the present case. It is submitted that the allegations levelled are totally false and frivolous for the reason that FIR No.259 dated 29.4.2022 had been registered by the Headmaster of the school against the complainant Rajesh Kumar. It is submitted that from the bare reading of the allegations made in the present FIR, it is evident that the alleged occurrence took place on 22.4.2022, however, the FIR was registered 7 days thereafter. It is submitted that motive for lodging the present FIR is that the complainant Rajesh Kumar along with other persons of his community had forcibly entered the school and badly beaten the petitioner in front of the teachers and students. He submits that by this act he terrorized the young students in the school. It is submitted that in order to create a false defence, present FIR has been lodged by misusing the statutory provisions. Counsel

submits that petitioner has no criminal antecedents and he himself belongs to OBC category. It is submitted that investigation in both the FIRs stand completed and challans have also been presented. It is submitted that in the present FIR even charges have been framed by the Trial Court. Counsel submits that in the overall facts and circumstances of the case petitioner deserves to be enlarged on bail.

On the other hand, learned State counsel on instructions from ASI Krishan Kumar has submitted that there are specific allegations against the petitioner regarding committing offence under the Atrocities Act and that under the POCSO Act. He submits that investigation in this case is complete and charges have been framed, however, out of the total 18 prosecution witnesses, none has been examined by the Trial Court till date. He submits that investigation in another FIR i.e. bearing no. 259 dated 29.4.2022 challan has been presented only qua Rajesh Kumar, whereas rest of the 4 accused were found innocent during investigation. It is submitted that petitioner has no criminal antecedents.

I have heard learned counsel for the parties at length and have gone through the records carefully.

Admittedly, two FIRs have been registered in the present dispute i.e. FIR No.259 dated 29.4.2022 and FIR No.260 dated 29.4.2022. The present FIR has been lodged at the behest of Rajesh Kumar and Joginder Singh, whereas the another FIR has been lodged at the behest of Headmaster of the school. As submitted before this court investigation in both the FIRs stand completed and in the present FIR even charges have been framed. There is nothing on record to show that petitioner has any criminal antecedents. Petitioner is behind bars for the last more than one

year.

This court would refrain itself from commenting anything on the merits of the case, as the allegations and counter allegations would be assessed only after evaluation of the complete evidence led by both the sides before the Trial Court. The trial would take sufficiently long time in its conclusion.

In the totality of facts and circumstances and without making any observation on merits, present petition is allowed. Petitioner be enlarged on bail on his furnishing bail/surety bonds subject to satisfaction of Trial Court/Duty Magistrate, concerned. Nothing stated herein shall be treated as an expression on the merits of the case.

(RAJESH BHARDWAJ)
JUDGE

29.05.2023

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