

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**219-1****CRM-M No.27815 of 2023****Date of Decision : 20.10.2023**

Shamsher

....Petitioner

VERSUS

State of Haryana

....Respondent

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. R.S. Mamli, Advocate for the petitioner.

Ms. Mayuri Lakhanpal Kalia, DAG Haryana.

ALKA SARIN, J. (Oral)**CRM-38411-2023**

1. This is an application for placing on record the copies of the statements of PW-1 to PW-6 as Annexure A-1.

2. For the reasons stated in the application, the same is allowed. Copies of the statements of PW-1 to PW-6 are taken on record as Annexure A-1. CRM stands disposed off.

CRM-42779-2023

3. This is an application for placing on record the copy of the order dated 21.09.2023 passed by this Court in CRM-M-20928-2023 as Annexure A-2.

4. For the reasons stated in the application, the same is allowed. Copy of the order dated 21.09.2023 passed by this Court in CRM-M-20928-2023 is taken on record as Annexure A-2. CRM stands disposed off.

CRM-M No.27815 of 2023

5. The present petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the petitioner in FIR No.0544 dated 08.10.2022 under Sections 328, 363, 366-A, 506, 34 and 120-B of the Indian Penal Code, 1860 and Sections 4 and 17 of the Protection of Children from Sexual Offences Act, 2012 registered at Police Station Kurukshetra University, District Kurukshetra.

6. The allegations in the FIR 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 pm, 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 Shamsher 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.”

7. Learned counsel for the petitioner would contend that the main accused, namely, Parveen Kumar, has since been granted the concession of regular bail by this Court vide order dated 21.09.2023 passed in CRM-M-20928-2023. Learned counsel for the petitioner would further contend that the main accused, Parveen Kumar and the complainant were friends and that no such incident as alleged in the FIR had occurred. Learned counsel for the petitioner has also submitted that the complainant as well as the victim had appeared before the Court and their statements were recorded as PW1 and PW4 respectively and both of them have since turned hostile. It has further been contended that the petitioner has been in custody for a period of 01 year and 10 days.

8. Custody certificate has been filed by learned State counsel as per which the petitioner has already been in custody for a period of 01 year and 10 days. Learned State counsel is not in a position to deny that the main accused, namely, Parveen Kumar, has since been granted the concession of regular bail by this Court vide order dated 21.09.2023 passed in CRM-M-20928-2023. Learned State counsel has also pointed out that out of total 23 prosecution witnesses only 07 stand examined. However, the victim and the complainant have been examined and cross-examined.

9. I have heard learned counsel for the parties.

10. In the present case, the main accused, namely, Parveen Kumar has since been granted the concession of regular bail by this Court vide order dated 21.09.2023 passed in CRM-M-20928-2023 and out of total 23 prosecution witnesses only 07 have been examined. However, the

complainant and the victim stand examined and cross-examined and both of them have not supported the prosecution version and have been declared hostile. The petitioner has already been in custody for a period of 01 year and 10 days.

11. In view of the above and without commenting upon the merits of the case, I deem it to be a fit case to grant the concession of regular bail to the petitioner. The petitioner is directed to be released on bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the Trial Court/Additional Sessions Judge (Duty) concerned.

12. However, the Prosecution will always be at liberty to apply for cancellation of bail in case the petitioner is found to be misusing the concession of bail in any manner.

13. It is also made clear that any observation made herein shall not be treated as an expression of opinion on the merits of the case.

14. Disposed off. Pending applications, if any, also stand disposed off.

20.10.2023
jk

(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO