

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

214

CRM-M-29125-2022

Date of Decision: 27.01.2023

Pavitra Vardhan

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Ms. Mehak Sawhney, Advocate for the petitioner

Ms. Dimple Jain, AAG, Haryana

JAGMOHAN BANSAL, J. (Oral)

1. The petitioner, through instant petition under Section 439 Cr.P.C. is seeking regular bail in FIR No.224 dated 12.09.2021 (Annexure P-1) under Sections 384 & 506 of IPC (Section 201 IPC added later on) and Section 12 of Protection of Children from Sexual Offences Act, 2012 (for short '**POCSO Act**') and Sections 66, 67-B of Information Technology Act, 2000 (for short '**IT Act**') registered at Women Police Station, NIT Faridabad, District Faridabad.

2. As per FIR, mother of prosecutrix moved a complaint with police authorities alleging that an unknown person has prepared a fake account of her daughter on Instagram and uploaded her obscene photographs and also demanded money through messages on Instagram. On these allegations, FIR was registered against unknown person. The petitioner was arrested on 10.04.2022 and since then he is in custody.

3. Learned counsel for the petitioner, *inter alia* contends that petitioner was not named in the FIR. The maximum sentence prescribed under Section 12 of POCSO Act as well under Section 384 IPC is three years though maximum sentence prescribed under Section 67-B of IT Act is five years. The petitioner is a 20 years old boy and is not involved in any other offence.

On being asked, learned counsel for the petitioner confirms that the petitioner and his father are working at Jalandhar and they undertake to furnish local surety/security.

4. Custody certificate dated 26.01.2023 is taken on record. Registry is directed to tag the same at appropriate place.

5. Learned State Counsel submits that there are total 17 witnesses, out of which 3 stand examined which include the prosecutrix and her mother-complainant. She confirms that petitioner is not involved in any other offence.

6. I have heard the arguments of learned counsel for the parties and scrutinized the record.

7. The petitioner is alleged to have committed an offence punishable under Section 12 of POCSO Act, Sections 384 & 506 IPC and Section 66, 67-B of IT Act. The maximum sentence prescribed under Section 67-B of IT Act is five years. The maximum sentence prescribed in case of other offences is three years. The petitioner is in custody for last more than 9 months. There are 17 witnesses and till date 3 have been examined, thus, there is abysmally low possibility of

conclusion of trial in near future. The prosecutrix and complainant stand examined, thus, there is no possibility of winning over or pressuring of witnesses.

8. Keeping in view these facts and circumstances, this Court is of the considered opinion that present petition deserves to allowed and accordingly allowed. The petitioner is ordered to be released on bail subject to conditions as may be imposed by Trial Court/Illaqa/Duty Magistrate concerned.

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.

10. The Trial Court is directed to seek local surety/security while accepting bail bonds.

(JAGMOHAN BANSAL)
JUDGE

27.01.2023
Mohit Kumar

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