

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

280

CRM-M No.32302 of 2023
Date of decision: 30.11.2023

Dharmender

... Petitioner

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Vikas Chaudhary, Advocate,
for the petitioner.

Mr. Neeraj Poswal, AAG, Haryana.

MANISHA BATRA, J.

1. The present petition has been filed by the petitioner Dharmender seeking grant of regular bail in case bearing FIR No.260 dated 10.07.2022 registered under Sections 354A (1) (ii), 366A IPC and 12 of the Protection of Children from Sexual Offences Act, 2012 (For short "POCSO Act") at Police Station Sadar Hansi, District Hisar.

2. Custody certificate dated 28.11.2023 filed by the learned State counsel, is taken on record.

3. Brief facts of the case relevant for the purpose of disposal of the present petition are that the aforementioned FIR had been registered on the basis of written complaint submitted by the complainant "R"

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(name withheld) alleging therein that on 10.07.2022, he along with his wife had gone to visit his in-laws place at Village Gatauli. His minor daughters namely, “S” (name withheld) and “K” (name withheld) were left at home. At about 1.00 PM, his neighbourers Pinky telephonically informed him that while his daughters were playing in the street in the rain, the petitioner-accused who was bathing his buffaloes in the rain, called his daughters and told them to remove their underwears. They did not do so. Then the petitioner told them to come to the roof of his house for the purpose of playing and he forcibly started taking his daughters towards upstairs. She informed that his younger daughter had managed to leave the petitioner and came back while running downstairs whereas he took his elder daughter “K” upstairs and while taking off his underwear, told “K” that he would insert the same in her back. “K” had also raised alarm and then both the daughters of the complainant had told about this fact to Pinky. On hearing so, the complainant rushed back home with his wife and the abovesaid allegations were verified by his daughters. He prayed for taking penal action against the culprit. After registration of FIR, investigation proceedings were initiated. The petitioner was arrested on 11.07.2022. After completion of necessary investigation and usual formalities, the challan was presented against him and presently, he is facing trial.

4. Learned counsel for the petitioner argued that the petitioner had been falsely implicated in this case as due to the reason that there was previous enmity between the father of the complainant and himself. He

was in custody w.e.f. 11.07.2022. The statements of the victims had since been recorded and there were no chances of intimidating these witnesses. The trial was likely to take time. No useful purpose was going to be served by keeping him in custody any more. Hence, he argued that the bail application deserves to be allowed.

5. Learned State counsel has resisted the petition in terms of the status report and by submitting that the petitioner attempted to molest the victims who were of tender age. There were serious and specific allegations against him. The victims recorded their depositions in the Court against the petitioner. The trial might be expedited. Hence, he argued that the petition did not deserve to be allowed.

6. The petitioner is alleged to have sexually harassed the two daughters of the complainant by making gestures and exhibiting his part of body with the intention that such gestures or part of body could be seen by the victims and is also alleged to have intended to outrage their modesty. He is in custody since 11.07.2022. The trial has commenced and is likely to take time. There is no question of his intimidating the private witnesses as the victims have since been examined in the Court. It is well settled proposition of law that bail is the rule and the jail is an exception. Keeping in view the period spent by the petitioner in custody, the nature of the subject offences and the attendant facts and circumstances of the case but without meaning to make any comment on the merits of the case, I am of the considered opinion that the petition deserves to be allowed. Hence, the same is allowed and the petitioner is

ordered to be admitted to bail subject to his furnishing personal as well as surety bonds to the satisfaction of learned trial Court concerned.

30.11.2023
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(MANISHA BATRA)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No