

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

214

CRM-M-33242-2022

Date of Decision: 24.03.2023

Sunil Kumar

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Mr. Mohit Kumar, Advocate for the petitioner

Mr. Amish Sharma, AAG, Punjab
(assisted by ASI Nirankar Singh)

JAGMOHAN BANSAL, J. (ORAL)

1. The petitioner, through instant petition under Section 439 Code of Criminal Procedure, 1973 (for short '**Cr.P.C.**') is seeking regular bail in FIR No.14 dated 19.01.2022 under Sections 354-A & 506 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, Division 4, Lahori Gate, Patiala.

2. The case of the prosecution is that Mohan Lal son of Lok Nand Lal made a complaint to police alleging that he is running a *Pansari* shop in the main market of Gurbaksh Colony, Patiala. He has three children. His second daughter is 17 years and 8 months old. On 31.08.2021 at about 10:00 PM, he along with his wife and children had

gone to *Janmashtami Mela* at Veer Haqiqat Rai School, Patiala. While they were going to enter inside the school, the petitioner along with his 2-3 friends committed obscene act with his daughter. They went to S.D. School Arya Samaj, Patiala at 10:45 PM. While they were entering the school, the petitioner along with friends pushed him.

3. Learned counsel for the petitioner, *inter alia* contends that complainant on the same set of allegations, with same police station, has lodged 3 FIRs against the petitioner. The petitioner is not involved in any other case except FIRs lodged by the same complainant. The petitioner is alleged to have committed offence punishable under Section 354-A & 506 of IPC and Section 8 of POCSO Act. The maximum sentence prescribed under Section 8 of POCSO Act is 5 years and sentence prescribed under Section 354-A & 506 IPC is 3 years.

4. Custody certificate dated 23.03.2023 is taken on record. Registry is directed to tag the same at appropriate place.

5. Status report by way of affidavit dated 23.03.2023 of Sanjeev Singla, P.P.S., Deputy Superintendent of Police, City-1, District Patiala filed on behalf of respondent-State is taken on record. Registry is directed to tag the same at appropriate place.

6. Learned State Counsel submits that police report has already been filed and charges stand framed. He further submits that out of 10

witnesses, 2 have already been examined which includes complainant and prosecutrix.

7. In the case is hand, the petitioner is allegedly involved in commission of offence punishable under Section 8 of POCSO Act where maximum prescribed sentence is 5 years. The petitioner has already suffered incarceration of 14 months. The Trial Court yet has to return definite findings on the disputed issues. There are 10 prosecution witnesses and till date only 2 have been examined, thus, there is abysmally low possibility of conclusion of trial in near future. The material witness i.e. prosecutrix and complainant stand examined.

8. 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.

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. There is allegation of repeated harassment on the part of petitioner to complainant and his family members. It is made clear that if at any point of time, petitioner contacts prosecutrix or her father, bail

granted to the petitioner shall be liable to be dismissed as soon as an appropriate application is moved by State or complainant.

(JAGMOHAN BANSAL)
JUDGE

24.03.2023
Mohit Kumar

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