

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

CRM-M-40468-2022
Date of Decision:-**20.01.2023**

SANTOSH

... Petitioner

Versus

STATE OF HARYANA

... Respondent

-.-

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

-.-

Present:- Mr. Narender Kaajla, Advocate
for the petitioner.

Ms. Harpreet Kaur, AAG, Haryana.

-.-

KARAMJIT SINGH, J. (Oral)

Prayer is for grant of regular bail in case having FIR No.20 dated 28.2.2021 registered under Section 6 POCSO Act at Police Station Women District Panchkula.

The counsel for the petitioner *inter alia* contends that the petitioner has been falsely implicated in this case at the instance of the parents of minor child alleging that the petitioner committed unnatural act with the said minor male child. That the mother of the victim while appearing in the witness box has not supported the case of the prosecution and that even the father of the victim clearly stated that the alleged

occurrence was not witnessed by him. The counsel for the petitioner further submits that even the report of DNA (Annexure P-5) is not supporting the case of the prosecution. The counsel for the petitioner further made prayer that the petitioner who is in custody since 2.3.2021 be released on regular bail.

The instant petition is contested by the State counsel, who submits that there are serious allegations appearing against the petitioner that he committed unnatural act with minor boy. However, the State counsel has not disputed the fact that while appearing in the witness box the mother of the victim denied the occurrence in question and even the father of the victim denied that he witnessed the occurrence and further the report of DNA is not in favour of the prosecution.

I have considered the submissions made by counsel for the parties.

As per the custody certificate furnished by the State counsel, the petitioner is in custody since last more than 1 year and 6 months and is having no criminal history. Admittedly the trial is going on and during trial all the material witnesses are examined and further the report of DNA is Annexure P-5 but the same is not corroborating the prosecution version in any manner and rather goes against the prosecution. Further the mother of the victim has not supported the case of prosecution in her cross-examination and the father who lodged complaint, stated in his cross-examination that nothing happened in his presence. It will take considerable time for the trial to conclude.

In the given circumstances, so no purpose is going to be served by keeping the accused behind the bars for any longer period. Thus without commenting on the merits of the case, the petition is allowed and the petitioner is ordered to be released on bail subject to his furnishing bail and surety bonds to the satisfaction of the trial Court/CJM/Duty Magistrate concerned.

20.01.2023
Gaurav Sorot

(KARAMJIT SINGH)
JUDGE

Whether reasoned / speaking? Yes / No

Whether reportable? Yes / No