

IN THE HIGH COURT OF PUNJAB & HARYANA

AT CHANDIGARH

202

CRM-M-39134 of 2022

Date of decision:18.05.2023

Jaskirat Singh

... Petitioner

Vs.

The State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Gurmandeep S.Sullar, Advocate
for the petitioner.

Mr. Harish Nain, AAG, Haryana.

SUVIR SEHGAL, J. (Oral)

1. This is the second petition filed under Section 439 of the Code of Criminal Procedure, 1973 (for short “the Code”), seeking grant of regular bail pending trial in case bearing FIR (Annexure P-1):-

FIR No.	Dated	Police Station	Sections
440	03.03.2020	Ambala City, District Ambala	506 IPC, Sections 6 and 10 of the Protection of Children from Sexual Offences Act, 2012 (for short “the POCSO Act”), however, Section 323 IPC and Section 67 of the Information & Technology Act, 2008 were added later on.

2. Case of prosecution is that FIR (Annexure P-1) has been registered on the basis of a written complaint submitted by HS (name withheld), father of a 15 year old boy (for short “minor victim”) on the allegation that Gagan, Simran, Kirat, present petitioner, who lived within the

vicinity of his house, sexually assaulted his son about 4-5 years ago, made a video of the incident, threatened and exploited him. Due to the intimidation, complainant's son suppressed the incidents. About two days back, complainant noticed that he was bleeding and suspecting a wrong, he spied on his movements and managed to record threats extended by the accused.

3. Counsel for the petitioner urges that the petitioner, who is a young boy, has been falsely implicated in connivance with the local police in order to harass and humiliate the petitioner's family for extraneous reasons. He urges that the allegations levelled against the petitioner do not inspire confidence and it is highly unbelievable that the minor victim underwent agony in silence years together. Counsel submits that as all the material witnesses have been examined, there is no probability of influencing them, therefore, the petitioner deserves to be set free on bail.

4. Per contra, State counsel upon instructions from SI Jai Gopal, has opposed the petition by making a reference to the allegations levelled in the FIR. He has also invited the attention of the Court to the deposition of the complainant as well as of the minor-victim to submit that both the crucial witnesses have supported the case of the prosecution. As per his instructions, 18 out of total 29 witnesses have been examined.

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

6. Petitioner alongwith the co-accused, are hand in glove with each other and accused of a heinous crime. They have spoiled a young life

by their deplorable activities. Both the complainant and the minor-victim have stood by their version and their testimony has remained unshaken despite an extensive cross-examination. In his statement, on oath, the minor victim has testified that the accused sodomized him 50-60 times in the last five years. Noticing the shocking nature of allegations against the petitioner, this Court is not inclined to accede to the prayer made in the petition.

7. Still further, previous petition filed by the petitioner was withdrawn, after arguments, on 25.11.2020 (Annexure P-6) and except for the custody, petitioner has not been able to show any change in circumstances. Filing of repeated bail petitions amounts to seeking review of the previous order which is not permissible in criminal law as has been held by the Hon’ble Supreme Court in **Hari Singh Mann Vs. Harbhajan Singh Bajwa (2001) 1 SCC 169; State of Madhya Pradesh Vs. Kajad, 2001 SCC (Criminal) 1520 and State of Maharashtra Vs. Buddhikota Subha Rao 1989 Suppl. (2) SCC 605.**

8. Keeping in view the totality of facts and circumstances, this Court is of the view that the prayer lacks merit. Petition is dismissed.

9. It is clarified that nothing said hereinabove shall be construed to be an expression of opinion on the merits of the case.

May 18, 2023

savita

(SUVIR SEHGAL)
JUDGE

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No