

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-37460-2023 (O&M)
Date of Decision : 08.08.2023

Sandeep KumarPetitioner

VERSUS

State of HaryanaRespondent

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Nikhil Mittal, Advocate for the petitioner.

Ms. Mayuri Lakhanpal Kalia, DAG Haryana.

ALKA SARIN, J. (Oral)

1. This is the first petition under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the petitioner in FIR No.341 dated 04.05.2023 under Sections 365, 366A of the Indian Penal Code, 1860 and Sections 4, 17 of the Protection of Children from the Sexual Offences Act, 2012 registered at Police Station City Yamuna Nagar, District Yamuna Nagar, Haryana.

2. Learned counsel for the petitioner would contend that the petitioner is neither named in the FIR nor in the statement of the victim recorded under Section 164 CrPC. Learned counsel has further contended that in the statement under Section 164 CrPC, there is not a whisper about the victim having being taking to Friends Café. Learned counsel for the petitioner further contends that in the present case the petitioner is neither

the owner of the Friends Café nor the tenant. Learned counsel has pointed out that on the basis of a rent deed of the year 2018 wherein he is shown as a tenant of the premises where Friends Café is running to simply implicate him.

3. Learned State counsel, on instructions from SI Lakhwinder Singh, has stated that the petitioner is neither named in the FIR nor in the statement recorded under Section 164 CrPC. Learned State counsel on instructions further states that in his disclosure statement the accused has mentioned that he had taken the victim to Friends Café. Learned State counsel is not in a position to deny the fact that even in the disclosure statement the name of the petitioner does not figure anywhere.

4. Learned counsel for the complainant has also stated that there are no allegations which have been made by the complainant qua the present petitioner and that the present petitioner is neither named in the FIR nor the statement of the victim recorded under Section 164 CrPC.

5. I have heard learned counsel for the parties.

6. In the present case, on 07.08.2023 learned State counsel had sought an adjournment as the Investigating Officer was not present. Today the Investigating Officer is present in Court. Despite repeated questioning the Officer has not been able to show any statement of the victim or any other document which would even remotely connect the petitioner with the incident. Much reliance has been placed upon the disclosure statement of the accused, however, it has candidly been admitted that the name of the

petitioner does not even figure in the disclosure statement of the accused and the only mention is of some Friends Café. As per the custody certificate, the petitioner has been in custody for a period of 01 month and 02 days. The trial is likely to take some time to conclude.

7. Keeping in view the totality of circumstances and without commenting upon the merits of the case, I deem it a fit case to grant the concession of regular bail to the petitioner. The petitioner is directed to be released on bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the Additional Sessions Judge (Duty)/Trial Court concerned.

8. However, the Prosecution will always be at liberty to apply for cancellation of bail in case the petitioner is found to be misusing the concession of bail in any manner.

9. It is also made clear that any observation made herein shall not be treated as an expression of opinion on the merits of the case.

10. Disposed off. Pending applications, if any, also stand disposed off.

August 07, 2023
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(ALKA SARIN)
JUDGE

NOTE : Whether speaking/non-speaking : Speaking
Whether reportable : YES/NO