

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

223

CRM-M-41451-2023 (O&M)

Date of Decision : 29.11.2023

AMAN @ CHANNA

.... Petitioner

VERSUS

STATE OF HARYANA

.... Respondent

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Diwan S. Adlakha, Advocate for the petitioner.

Ms. Priyanka Sadar, AAG Haryana.

ALKA SARIN, J. (ORAL)

CRM-49708-2023

Application is allowed, as prayed for.

Annexure P-4 (statement of PW-1/victim) is taken on record.

Registry to scan the same and tag at the appropriate place.

CRM-M-41451-2023

1. The present petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the petitioner in FIR No.127 dated 01.06.2023 under Section 10 and Section 6 (added later on) read with Section 18 of Protection of Children from Sexual Offences Act, 2012 registered at Police Station Raipur Rani, District Panchkula.

2. In the present case the FIR was lodged on 01.06.2023 on the statement of the mother of the victim who stated that her daughter was playing on the terrace. At that time the present petitioner called her and

asked her to make a video clip and took her in a house which was under construction. No one else was there and only a cot was lying. He pushed her on the cot and thereafter he himself lay upon her. She managed to push him and fled from there. She narrated the entire facts to her grandmother and mother. On the basis of the said statement, FIR was lodged. The statement of the victim was recorded under Section 164 CrPC where she reiterated what had been stated by her mother in her complaint.

3. Learned counsel for the petitioner would contend that the petitioner has been in custody for a period of 5 months and 27 days. It is further the contention of the learned counsel that the victim now stands examined and she has been declared hostile by the prosecution. Learned counsel has further contended that the victim has clearly stated in her cross-examination that the statement that the petitioner lay upon her was made on the direction of the Police. She further stated that the statement was never read over to her. Even the statement recorded under Section 164 CrPC was recorded on the dictation of the Police.

4. Learned counsel for the State has filed the custody certificate and as per the custody certificate the petitioner has been in custody for a period of 5 months and 27 days. Learned counsel has vehemently argued that the victim in the present case is a 12 years old girl. She is, however, not in a position to refute the fact that the victim has not supported the prosecution version.

5. Heard.

6. In the present case the FIR was registered on the statement of

the mother of the victim. Thereafter, the victim had supported the version as put forth in the FIR and in her statement recorded under Section 164 CrPC. However, while appearing before the Court below as PW-1 the victim has categorically denied having made a statement to the effect that the petitioner lay upon her. It has further been stated by the victim in her cross-examination that the said statement was made on the asking of the Police. The petitioner has been in custody for a period of 5 months and 27 days. The trial is likely to take some time to conclude and no useful purpose would be served by keeping the petitioner behind the bars any further.

7. In view of the above and without commenting upon the merits of the case, this Court deems it to be 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 Trial Court/Additional Sessions Judge (Duty) 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.

29.11.2023

Aman Jain

NOTE:

(ALKA SARIN)

JUDGE

Whether speaking/non-speaking: Speaking

Whether reportable: YES/NO