

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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CRM-M-41781-2023 (O&M)

Date of order: 29.08.2023

Vishal

.....Petitioner(s)

Vs.

State of Haryana & Another

.....Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Paramjeet Phor, Advocate
for the petitioner.

Nidhi Gupta, J.

Prayer in this first petition filed under Section 439 of Code of Criminal Procedure (hereinafter referred to as "Cr.P.C.") is for grant of regular bail in case FIR No.143 dated 30.04.2023 registered under Section 323 of Indian Penal Code, 1860 (hereinafter referred to as "IPC") and Section 12 of The Protection of Children from Sexual Offences Act, 2012 (Sections 354, 354-A, 341 and 506 IPC and Sections 8 and 10 of POCSO Act deleted later on) at Police Station Kunjpura, District Karnal, Haryana.

2. FIR in the present matter was registered on the statement of the prosecutrix which is reproduced hereinbelow:-

"....Sir, it is requested that I Mxxxx daughter Bxxxx resident of village xxxx. Two boys of my village namely Monu s/o Jaipal and Vishal s/o Rajkumar resident of Chundipur harass me without any reason and fight with my parents as well. I request you to take action against them...."

3. It is inter alia submitted by learned counsel for the petitioner that the allegations made against the petitioner in the FIR are utterly false and fabricated. It is submitted that present FIR is the counterblast to the complaint filed by mother of the petitioner against the parents of the victim on 29.04.2023 (Annexure P2). Learned counsel further submits that in the present case victim is about 17-and-a-half year old and she has refused for the MLR. Even in her statement under Section 164 Cr.P.C., the allegations to the effect that the petitioner has been harassing her for the last eight years, is false.

4. Notice of motion.

5. Mr. Arjun Lakhanpal, Add. AG Haryana accepts notice on behalf of respondent No.1-State.

6. Learned State Counsel files custody certificate dated 28.08.2023 which is taken on record. As per the custody certificate, the petitioner has been in custody for 2 months and 26 days. Learned State Counsel further submits that in the present case, challan has been presented on 11.07.2023 and charges are yet to be framed.

7. I have heard learned counsel for the parties.

8. Without commenting on the merits of the matter, however, keeping in view the totality of the facts and circumstances of the case including the fact that the trial will take some time to conclude, and the fact that there are no other cases against the petitioner, present petition is **allowed**. The petitioner namely Vishal s/o Raj Kumar is ordered to be released on regular bail on his furnishing bail and surety bonds to the satisfaction of the concerned trial Court/Duty Magistrate.

9. However, it is made clear that nothing stated above shall

be construed as an expression of opinion on the merits of the case.
10. Pending application(s) if any also stand(s) disposed of.

29.08.2023
Sunena

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No

(Nidhi Gupta)
Judge