

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CRM-M-45111-2023

Date of Decision: 15.09.2023

Monu

.... Petitioner

Versus

State of Haryana and another

.... Respondents

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present: - Mr. Virender Kumar, Advocate for the petitioner.

Mr. Brijesh Sharma, AAG, Haryana.

NIDHI GUPTA, J. (ORAL)

Prayer in this first petition filed under Section 439 Cr.P.C. is for grant of regular bail in case FIR No.143 dated 30.04.2023 registered under Section 323 IPC and Section 12 of The Protection of Children from Sexual Offences Act, 2012 (for short-the POCSO Act), [later on Sections 354, 354-A, 341 and 506 IPC and Section 10 of POCSO Act were added and Section 8 of the POCSO Act was deleted] at Police Station Kunjpura District Karnal, Haryana.

FIR in the present matter was registered on the statement of the prosecutrix which is reproduced here-in-below:-

“....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....”

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. Learned counsel submits that the victim is about 17½ years old. It is submitted that in her statement under Section 164 Cr.P.C., it has been alleged that the petitioner along with his co-accused has been harassing her for the last eight years. However, admittedly, no complaint in this regard was ever made by the victim. Moreover, admittedly, the victim has refused to get medico-legal examination conducted. It is submitted that the learned trial Court in the impugned order dated 23.08.2023 has observed that the allegations levelled against the petitioner are on the same footing as that of the co-accused-Vishal, who has already been granted regular bail by this Court vide order dated 29.08.2023 (Annexure P-4). The petitioner has been in custody since 02.06.2023 and undertakes that he will not tamper the evidence or influence the witnesses. The trial is likely to take long time. No useful purpose will be served by further detention of the petitioner in custody. Thus, it is prayed that treating the case of the petitioner on parity with that of his co-accused, he may be released on regular bail.

Per Contra, learned counsel for the State has filed custody certificate dated 14.09.2023, which is taken on record, as per which the petitioner has been in custody as an undertrial for a period of 03 months and 12 days. Learned counsel further submits that in the present case, challan has been presented on 11.07.2023 and charges are yet to be framed.

Having heard learned counsel for the parties, but without commenting on merits of the case, however, keeping in view the totality of the facts and circumstances of the case including the fact that the trial is yet to commence and will take time to conclude, the fact that there are no other cases against the petitioner, as well as the fact that the co-accused of the petitioner, namely, Vishal has already been enlarged on bail by this Court vide order dated 29.08.2023 (Annexure P-4), the present petition is **allowed**.

The petitioner-Monu S/o Shri Jai Pal, is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate, concerned.

However, it is made clear that nothing stated above shall be construed as an expression of opinion on the merits of the case.

15.09.2023
rishu

(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No