

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**218****CRM-M No.46557 of 2023****Date of Decision : 21.09.2023**

Rajeev Kumar

....Petitioner

VERSUS

State of Haryana

....Respondent

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Abhilaksh Grover, Advocate for the petitioner.

Ms. Mayuri Lakhanpal Kalia, DAG Haryana.

Mr. Vaibhav Vats, Advocate for the complainant.

ALKA SARIN, J. (Oral)

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.38 dated 09.06.2023 under Sections 328, 376(2)(n), 354-D and 120-B of the Indian Penal Code, 1860 and Sections 67 and 67-A of the Information Technology Act, 2000 registered at Police Station Women, Kurukshetra, District Kurukshetra

2. Learned counsel for the petitioner would contend that the petitioner was neither named in the FIR nor in the statement of the victim recorded under Section 164 CrPC. Learned counsel for the petitioner would further contend that the name of the petitioner has been nominated only on the basis of disclosure statement of one Rohit Barmani. Learned counsel for the petitioner has referred to the statement of Rohit Barmani, which has been appended with the petition as Annexure P-2, wherein it has been stated that Rohit Barmani is running a mobile shop in Shahabad and that one Vansh son

of Surinder Singh is his friend and that he and his friend used to meet each other in that shop in the evening. Vansh sent a nude video of Anamika from his mobile phone No.8221007213 to his mobile phone No.8575007800 and that he had forwarded it to the present petitioner. Learned counsel for the petitioner has contended that except for the disclosure statement of Rohit Barmani there is nothing on the record to link him with the said incident. It has further been contended that similarly situated co-accused, namely, Sunaina Bhatnagar @ Naina has since been granted the concession of bail by this Court vide order dated 13.09.2023 passed in CRM-M-44730-2023.

3. Notice of motion.

4. Ms. Mayuri Lakhanpal Kalia, DAG Haryana, who is present in Court, accepts notice on behalf of the respondent-State while Mr. Vaibhav Vats, Advocate puts in appearance on behalf of the complainant.

5. Learned State counsel has filed the custody certificate of the petitioner as per which he has been in custody for a period of 02 months and 17 days. Learned State counsel is not in a position to deny the fact that the petitioner was neither named in the FIR nor was named by the victim in her statement recorded under Section 164 CrPC and he has been nominated only on the basis of the disclosure statement of the co-accused, namely, Rohit Barmani.

6. Learned counsel for the complainant has vehemently opposed the grant of bail to the petitioner stating that the mobile phone of the petitioner has been taken into possession by the police and has been sent to CFSL and the report is yet to be received and hence it is not a fit case to grant bail to the petitioner.

7. I have heard learned counsel for the parties.

8. In the present case there are no allegations in the FIR against the petitioner. Rather, the allegations in the FIR are that the victim was physically and mentally exploited by the co-accused, namely, Manish Saini and his family has made an obscene video of the victim viral. The name of the petitioner has surfaced in the disclosure statement of co-accused Rohit Barmani. The petitioner has already been in custody for a period of 02 months and 17 days.

9. In view of the above and without commenting upon the merits of the case, I deem 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.

10. 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.

11. 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.

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

21.09.2023
jk

(ALKA SARIN)
JUDGE

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