

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

208

CRM-M-46794-2023

Date of Decision: 21.09.2023

Imran

.... Petitioner

Versus

State of Punjab

.... Respondent

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present: - Mr. Sushil Jain, Advocate for the petitioner.

Mr. Jaswinder Singh Arora, DAG, Punjab.

Ms. Archana Chauhan, Advocate
for the mother of the victim.

NIDHI GUPTA, J. (ORAL)

The petitioner has filed the present 1st petition under Section 439 of the Code of Criminal Procedure, 1973, for grant of regular bail in case FIR No. 121 dated 19.07.2023 (Annexure P-1) registered under Sections 376(2)(1) IPC and Section 4 of the Protection of Children from Sexual Offences (Amended) Act, 2012 at Police Station Garhshankar, District Hoshiarpur.

The aforesaid FIR was registered on the statement of the victim, which reads as under:

“Statement of Sunita Basaur @ Munni daughter of Atma Ram Basour resident of V.P.O. Bimra, Police Station Bargama, District Sangroli (M.P.) presently resident of Chandigarh Road, Near Petrol Pump, Garhshankar, District Hoshiarpur aged about 14 years Mobile No. 74711-47775. State, that I am resident of aforesaid address and I am residing with my mother and father in Garhshankar. In Chandigarh Chowk at Garhshankar, a boy, whose name is

Imran son of Harun, resident of Budhana, District Muzaffarnagar (UP), also resides in Garhshankar and he also puts his rehri of fruit selling on Chandigarh Chowk, Garhshankar, who from the last 5-6 days by expressing his love desire by feeding me fruit and juice started touching my body, and few days earlier, he took me into bushes situated near Nawan Shehr Road, Near Garhshankar Canal and by frightening me committed wrong act. I did not tell anyone out of fear and again today when I went to collect firewood near canal of Garhshankar then same boy Imran came behind me and forcefully tried to commit wrong act, then I made hue and cry, then he ran away by leaving me. After reaching home, I told all this to my mother Ram Kali and sister Kavita.....”

Learned counsel for the petitioner, *inter alia*, submits that the petitioner is a mere fruit vendor. It is submitted that the present FIR was registered, as the petitioner had a fight with the family of the victim, therefore, he has wrongly been implicated in the present case. Learned counsel for the petitioner refers to affidavit dated 24.07.2023 (Annexure P-2) duly sworn-in by the mother of the victim, wherein she has admitted that she had a fight with the petitioner and no wrong act has been committed by the petitioner against the victim. It is further submitted that there is no medical evidence in support of the allegations made in the FIR. Even the victim in her statement under Section 164 Cr.P.C. recorded on 21.07.2023, has not supported the prosecution case. The petitioner has been in custody since 19.07.2023. The trial is likely to take long time. No useful purpose will be served by further detention of the petitioner in custody.

Per Contra, learned counsel for the State has filed custody certificate dated 20.09.2023, which is taken on record, as per which the petitioner has been in custody as an undertrial for a period of 02 months and 01 day. On instructions from SI Ramandeep Kaur, learned counsel

for the State submits that challan in the present has already been presented before the trial Court, however, charges are yet to be framed.

Ms. Archana Chauhan, Advocate has put in appearance on behalf of mother of the victim and files Vakalatnama, which is taken on record. Learned counsel for the mother of the victim does not dispute the submissions made on behalf of the petitioner.

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 custody certificate reveals that there is no other case against the petitioner, and the fact that charges are yet to be framed by the trial Court, therefore, conclusion of trial will take sufficient time in conclusion and no useful purpose would be served by further detention of the petitioner, the present petition is **allowed**.

The petitioner-Imran S/o Harun 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.

21.09.2023

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**(NIDHI GUPTA)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No