

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

209

CRM-M-47265-2023(O&M)

Date of decision: 09.10.2023

Bansi Lal

...Petitioner(s)

Vs.

State of Haryana

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present: - Mr. Karandeep Singh, Advocate
for the petitioner.

NIDHI GUPTA, J.

Present second petition under Section 439 Cr.P.C. is filed seeking grant of regular bail to the petitioner in case FIR No.22 dated 01.02.2023 under Section 354A(1) IPC and Section 10 of POCSO Act, 2012 registered at Police Station Bhattu Kalan, District Fatehabad.

2. FIR in the present case has been registered on the basis of statement of mother of the prosecutrix and the same reads as follows:-

"...I Sugna wife of Satbir is resident of Kirdhan. I do household work. I am having three children, one boy and two daughters. My youngest daughter x is aged 8 years. On dated 31-01-2023 I have sent her for bringing battery from my neighbourhood. When my daughter was coming back then I heard the weeping voice of my daughter in the street. Then In the street my daughter was in lap of Bansi son of Mahabir who is deaf and dumb since birth and he ran away after seeing me. Then I asked my daughter then my daughter told that Gunga has touched my private part after entering his hand in my pant. Today we have satisfied it in full. He has committed wrong act with my daughter. Strict legal action may kindly be taken against Bansi son of Mahabir resident of Kirdhan...."

3. Learned counsel for the petitioner inter alia submits that the petitioner has been falsely implicated in the matter. It is submitted that the petitioner in the present case is deaf and dumb and he has never committed any wrong with the victim and therefore, no offence under Section 354A(1) of the IPC and Section 10 of POCSO Act is made out against the petitioner. It is further submitted that there is an unexplained delay in registration of the FIR. It is accordingly prayed that in view of the above facts, the petitioner be released on regular bail.

4. Notice of motion.

5. Mr. Brijesh Sharma, AAG Haryana accepts notice on behalf of respondent-State and files custody certificate dated 08.10.2023 which is taken on record. As per custody certificate, the petitioner has been in custody as under trial for 7 months 6 days. Learned State Counsel opposes the prayer for grant of regular bail to the petitioner and submits that the victim in the present case is 8-years-old whereas the petitioner is 28 years old. It is submitted that there is no delay in registration of the FIR as the date of incident is 31.01.2023 at 6 pm and FIR has been registered on 01.02.2023. It is submitted that as per the prosecution version, the complainant had sent the victim to bring a battery from the neighbourhood. The complainant heard cries of the victim in the street and saw that the petitioner had made the victim sit in his lap. It is submitted that the victim had categorically told the complainant that the petitioner had touched her private parts and put his hand in her pants. It is submitted

that the victim has supported the prosecution case in her statement under Section 164 Cr.P.C. dated 02.02.2023 (Annexure P2); as also in her statement before the Legal Advisor, District Legal Services Authority dated 01.02.2023 (Annexure P3).

6. Learned State Counsel also submits that out of 19 witnesses 10 have been examined so far; and the victim and the complainant have also been examined and have supported the prosecution case in their respective testimonies. It is further submitted that there is no reason why the 8-year-old victim would lie and falsely implicate the petitioner.

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 age of the victim, and the seriousness of the allegations made against the petitioner, as also the fact that the trial is nearing culmination as 10 out of 19 witnesses already stand examined, I find no ground is made out to grant regular bail to the petitioner. Present petition accordingly stands **dismissed**.

9. Pending application(s) if any also stand(s) disposed of.

09.10.2023

Sunena

(Nidhi Gupta)

Judge

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No