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2023 : PHHC : 155675

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

CRM-M-48953-2023

Date of Decision: 06.12.2023

GULSHAN

... PETITIONER

V/S

STATE OF PUNJAB AND ANOTHER

... RESPONDENTS

**CORAM: HON'BLE MR. JUSTICE VIVEK PURI**

Present: Mr. Rohan Garg, Advocate for  
Mr. Siddarth Sihag, Advocate for the petitioner.

Ms. Ruchika Sabherwal, DAG Punjab.

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**VIVEK PURI, J. (ORAL)**

1. The petitioner is seeking regular bail in case bearing FIR No. 47 dated 18.03.2023 under Sections 323, 354, 363 IPC and Section 8 of Protection of Children from Sexual Offences Act, registered at Police Station Sultanpur Lodhi, District Kapurthala.
2. Custody certificate has been taken on record.
3. Learned counsel for the petitioner contends that as per the allegations, the petitioner had caused sexual harassment to the victim, who is aged about 7 years. The FIR has been registered on the basis of the statement of the mother of the victim, who has not supported the prosecution version. Besides, the sister of the complainant has also been examined in the trial Court and even she has not supported the prosecution version. The petitioner has been falsely implicated in the instant case. The charge was framed on 09.08.2023 and despite 07 opportunities for

prosecution evidence, the statement of the victim has not been recorded. The petitioner is in custody for a period of 8 months and 19 days and not involved in any other case. Furthermore, for the offence under Section 8 of Protection of Children from Sexual Offences Act, the maximum sentence prescribed is 5 years.

4. Learned State counsel has opposed the bail application on the score that the victim is 7 years old child and in her statement under Section 164 Cr.P.C., she has levelled specific allegations against the petitioner.

5. It may be mentioned here that on 09.10.2023, it was submitted by the learned State counsel that the next date of hearing in the trial Court is 28.10.2023 and endeavour shall be made to get the statement of the victim recorded on that date. Accordingly, the matter in this Court was adjourned to 08.11.2023.

6. On 8.11.2023, it was submitted by the learned State counsel that the statement of the victim has not been recorded and an adjournment was sought to verify with regard to reasons for non-examination of the statement of the victim and the next date of hearing in the trial Court was stated to be 29.11.2023.

7. On a query, with regard to the reasons for non-examination of the statement of the victim, learned State counsel, on instructions from SI Balbir Singh, submits that she is having no information in this regard as the concerned official who has come to assist her has not verified this aspect of the matter. It has not been disputed that even on 29.11.2023, the victim was not examined. The victim has not been examined despite the fact that the case in the trial Court was adjourned for 7 dates of hearing for prosecution evidence after framing of the charge. The mother and aunt of the victim

have not supported the prosecution version. The petitioner is in custody for a period of 8 months and 19 days and not involved in any other case. The conclusion of trial is likely to take some time and no fruitful purpose would be served by detaining the petitioner in further custody.

8. As such, sufficient mitigating circumstances are made out to extend the concession of bail to the petitioner. Therefore, without making any expression of opinion on the merits of the case, it is ordered that the petitioner be released on regular bail subject to his furnishing fresh bail bonds/surety bonds to the satisfaction of the concerned trial Court/Chief Judicial Magistrate/Duty Magistrate.

9. The petition is allowed.

**06.12.2023**

Janki

**(VIVEK PURI)  
JUDGE**

Whether speaking/reasoned : Yes/No  
Whether reportable : Yes/No