

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CRM-M-48442-2023 (O&M)

Date of Decision : 29.11.2023

POPIN

.... Petitioner

VERSUS

STATE OF HARYANA

.... Respondent

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Ashwani Gaur, Advocate and
Ms. Shivangi Sharma, Advocate for the petitioner.

Ms. Priyanka Sadar, AAG Haryana.

ALKA SARIN, J. (ORAL)

1. The present second 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.337 dated 26.06.2023 under Section 12 of Protection of Children from Sexual Offences Act, 2012; Sections 148, 149, 323, 354-A, 354-D and 506 and Sections 325 and 307 (added later on) of the Indian Penal Code, 1860 registered at Police Station Sector-27, Sonipat, District Sonipat. The first petition being CRM-M-41652-2023 was dismissed as withdrawn on 05.09.2023 with liberty to file a fresh one with better particulars.

2. Learned counsel for the petitioner would contend that the petitioner had gone to the Mosque to pay obeisance when the scuffle between the complainant and the co-accused took place. It is further the

contention of the learned counsel for the petitioner that the petitioner was not named in the FIR and that the petitioner has been nominated only on the basis of the disclosure statement of co-accused, namely, Sohail. Learned counsel would further contend that no role has been attributed to the present petitioner. Learned counsel has further contended that the petitioner has been in custody for a period of 4 months and 5 days.

3. Learned counsel for the State has filed the custody certificate and as per the custody certificate the petitioner has been in custody for a period of 4 months and 5 days. Learned counsel for the State, on the instructions from SI Devinder Singh, is not in a position to deny the fact that the petitioner, even in the CCTV footage available with the Police, can only be seen standing at the place where the scuffle took place and that there is no overt act attributed to the petitioner even in the disclosure statement of co-accused, namely, Sohail.

4. Heard.

5. In the present case the petitioner was neither named in the FIR nor has any overt act been attributed to him even in the disclosure statement of co-accused, namely, Sohail. The petitioner, even in the CCTV footage available with the Police, can only be seen standing at the place where the scuffle took place. The petitioner has been in custody for a period of 4 months and 5 days. The trial is likely to take some time to conclude and no useful purpose would be served by keeping the petitioner behind the bars any further.

6. In view of the above and without commenting upon the merits

of the case, this Court deems 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.

7. 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.

8. 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.

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

29.11.2023

Aman Jain

(ALKA SARIN)
JUDGE

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