

CRM-M-53607-2022 -1-

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(203) CRM-M-53607-2022
Date of decision:- 17.05.2023

Anaar Singh ... Petitioner
Versus
State of Haryana ... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Ajit Sihag, Advocate
for the petitioner.

Mr. Harish Nain, AAG, Haryana
for State-respondent.

SUVIR SEHGAL, J. (ORAL)

1. This is the second petition filed under Section 439 of the Code of Criminal Procedure, 1973 seeking grant of post-arrest bail in:-

FIR No.	Dated	Police Station	Sections
143	16.11.2021	Women Police Station, Hisar, District Hisar	354-A, 354-B and 506, IPC and Sections 8 and 18 of the Protection of Children from Sexual Offences Act, 2012 (for short “the POCSO Act”).

2. Case of the prosecution is that FIR, Annexure P-1, has been registered on the complaint of the mother of thirteen year old girl (for short “the minor prosecutrix”) on the allegation that in the evening on 16.11.2021, her daughter stepped out of the house to play. In the

meanwhile, a female relative came and informed her that Anaar Singh, present petitioner, has taken the minor prosecutrix to his house. Complainant along with her relative immediately rushed to his house and forced her way in. On spotting them, Anaar Singh scaled the wall and fled. On enquiry, the minor prosecutrix informed that Anaar Singh had taken her inside on the pretext of giving her some eatables, but he forcibly caught her hand and tore her T-shirt.

3. Counsel for the petitioner urges that petitioner, who is a middle aged man, has been falsely implicated due to political friction in the village. Counsel submits that there is no medical evidence to support the allegations levelled against the petitioner. He has invited the attention of the Court to the testimony of the grandmother of the victim, PW-5, to submit that she has not supported the case of the prosecution. He asserts that as all the crucial prosecution witnesses have been examined, petitioner, who is in custody since 18.11.2021, deserves to be released from detention.

4. *Per contra*, learned State counsel, upon instructions from ASI, Suman Bala, has opposed the petition by urging that the petitioner, who is a mature person, is accused of offence under the POCSO Act, besides offences under the IPC and has taken advantage of a young innocent teenager. As per his instructions, five out of thirteen prosecution witnesses have been examined and the petitioner has a conviction under the Excise Act.

5. Having heard counsel for the parties, but without commenting upon the merits or demerits of arguments addressed by counsel for the

parties, this Court is prima facie of the view that the involvement of the petitioner in the offence would be determined by the Trial Court on the basis of the evidence led before it, which it does not call for any observation by this Court. Petitioner, who is in custody for the last more than one and half year, deserves to be enlarged on bail as all the vital prosecution witnesses including the minor prosecutrix, have been examined. As eight more prosecution witnesses are yet to step into the witness box, there is no immediate possibility of the conclusion of the trial. This is another factor, which will sway in favour of the petitioner.

6. In view of the above, petition is allowed. Petitioner is ordered to be released on bail on furnishing adequate bail/surety bonds to the satisfaction of the Area Magistrate/Duty Magistrate concerned.

7. It is clarified that nothing said hereinabove shall be construed to be an expression of opinion on the merits of the case.

(SUVIR SEHGAL)
JUDGE

17.05.2023

Kamal

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No