

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

217

CRM-M-50833-2023

Date of Decision: 13.10.2023

Anil Chahal

.... Petitioner

Versus

State of Haryana

.... Respondent

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present: - Mr. Yashveer Kharb, Advocate for the petitioner.

Mr. Brijesh Sharma, AAG, Haryana.

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. 74 dated 20.05.2023 registered under Sections 8 and 12 of the Protection of Children from Sexual Offences Act, 2012 (hereinafter referred to as 'the Act') and Section 506 IPC (Final report under Section 173 Cr.P.C. has been filed under Sections 10 and 12 of the Act and Sections 354, 354-A and 506 IPC) at Women Police Station Karnal, District Karnal.

The aforesaid FIR was registered on the basis of statement of father of the victim which is reproduced as under:-

".... Sir it is requested that I Sxxxx son of Sh. Sxxxx is resident of Ward No. 9, Indri, Karnal. That my daughter whose name is Vxxxxx and her age is about 17 years and studies in 12th class in DAV School, Darar, Karnal. My daughter had given her 12th standard exam in this year only.

That my daughter goes to school from home via bus. That the school bus driver Anil Kumar Chahal son of Sh. Ramesh Chahal resident of village Ghari Gujran, Police Station Indri, District Karnal used to take and drop children from school and my daughter Vxxxxx also goes via this school bus. That the driver Anil Kumar while coming and going had done wrong activities with my daughter Vxxxxx also had molested her with bad intention and had also threatened the girl that if she will tell this to anybody then he will kill her and her family. That due to fear my daughter had not told this to anyone and the driver Anil had clicked photographs of my daughter in his mobile phone by threatening her and had threatened her to talk with him on mobile phone or else he will viral her pictures. That due to fear my daughter had started talking with him on the mobile phone. That today my daughter was crying so I asked her that what happened then she told me the whole story and also she told that the driver Anil had physically molested her many times by touching her breast and legs and had also done wrong signs towards my daughter. That my daughter is under great fear and threat. Prior to this also he was made understood at the school level in the month of February, 2023 and also he had given in writing that he will never be in any relation with Vxxxxx or her family members or will disturb her the photocopy of same is attached herewith. That now my daughter used to go to Karnal for pursuing IELTS and he had against threatened my daughter in her way to kill her along with her family members. Therefore it is requested that legal action must be against the driver Anil Kumar....”

Learned counsel for the petitioner, *inter alia*, submits that the aforesaid FIR in the present case was registered on the basis of statement of the father of the victim. It is submitted that the allegations made in the FIR are false and fabricated as at the time of occurrence, the

victim in the present case was aged around 17 years and admittedly, she was in a friendship with the petitioner. Learned counsel for the petitioner refers to the statement of the victim recorded under Section 164 Cr.P.C. dated 21.05.2023 (Annexure P-2), wherein she has stated as follows:

“I study in DAV School. I was in friendship with my school bus driver Anil Chahal since August 2022. I used to talk with Anil Chahal with my own will. My father did not like all this and due to this reason he has got registered this case. I do not want any further action to be taken in this case. I do not want to say anything else.”

Thus, it is submitted that the statement of the victim recorded under Section 164 Cr.P.C., is contrary to the allegations of sexual assault levelled by the complainant/father of the victim in the FIR and the victim in her statement has not uttered even a single word qua any sexual assault allegedly committed by the petitioner as mentioned in the FIR. The petitioner has been in custody since 11.06.2023. The trial is likely to take long time. No useful purpose will be served by further detention of the petitioner in custody. Therefore, it is prayed that petitioner may be released on regular bail.

Per contra, learned counsel for the State has filed custody certificate dated 12.10.2023, which is taken on record, as per which the petitioner has been in custody as an undertrial for a period of 04 months and 02 days. Learned counsel for the State submits that challan in the present case has already been presented, however, charges are yet to be framed by the trial Court.

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 charges are yet to be framed by the trial Court, therefore, conclusion of trial will take considerable time and no useful purpose would be served by further detention of the petitioner, the present petition is **allowed**.

The petitioner-Anil Chahal S/o Ramesh Chahal, 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.

13.10.2023
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(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No