

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

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**Criminal Misc. No. M-52170 of 2023 (O & M)
Date of decision :-19.10.2023**

Salamuddin @ Cheema**.....Petitioner****Versus****State of Haryana****.....Respondent****CORAM:- HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. Sanyam Khetarpal, Advocate
for the petitioner.

Ms. Deepshikha Chauhan, AAG, Haryana
assisted by ASI Satbir.

NIDHI GUPTA J. (Oral)

Prayer in this 2nd petition filed under Section 439 Cr.P.C.
is for grant of regular bail to the petitioner during pendency of the
trial in case FIR No.296 dated 06.4.2023, under Sections 457, 380, 34
IPC (Section 8 of POCSO Act, 2012 deleted later on), registered at
Police Station Sector 58, Faridabad.

The FIR in the present case has been lodged by the
complainant/father of the victim. The contents of the FIR reads as
under :-

*“Contents of the complaint are that on dated
05.04.2023 Suman P/SI posted at Women Police
Station NIT Faridabad one complaint received
Police Post Sikri Police Station Faridabad
regarding to sexual assault upon minor girl, on
which the higher officers directed to take further*

legal action, where the complainant Gafar Khan son of Suleman r/o village nagla patwari PS Patwari Kherli district alwar Rajasthan at present Bhagat Singh Colony Harpali Road Village Sikri Faridabad reached alongwith his wife and daughter (victim) who gave presented the written complaint and the contents of the complaint are following as under: To, Incharge police post Sikri (Faridabad) Sir, I Gafar son of Sulemen R/o Village Nangla patwari, Police Station Patwari District Alwar at present Bhagat Singh Colony Sikri Faridabad. That in the intervening night of 03.04.2023 when I was sleeping along with my family in my house at about 3:30 AM in early morning I heard some voices due to which I woke up then I saw that Imran son of Sahun village Sobta District Palwal was running outside from the room, I followed him and then I saw that one Salamuddin @, Cheema son of Khurshid r/o village Softa was standing outside the house and both ran away then i entered in my house and saw that my daughter xxxxx age 13 years was awake who told me that a boy namely Imran who went away outside after seeing you, who was standing in front and then he took out his private part and discharged his semen's on my face. After which my wife and my other children's woke up. My wife namely Salma tried to find her mobile but same was missing. I am having a Suspicion that Imran took the mobile of my wife. It is respectfully prayed that kindly may take legal action against Imran and Salamuddin.”

Learned counsel for the petitioner *inter alia* submits that the complainant in the present case is father of the victim. It is stated

that age of the victim, at the time of alleged incident, was 13 years. It is stated that even as per FIR, the only allegation levelled against the petitioner is that he was standing outside the house of the victim when the incident occurred. It is stated that except the above allegation, no other specific or serious allegations have been levelled against the petitioner. It is stated that in her statement under Section 164 Cr.P.C., the victim had retained the same allegation as made in the FIR, that the petitioner was standing outside the house at the time of alleged incident.

Learned State counsel submits that in the present case charges have been framed on 13.9.2023, however, no prosecution witness has been examined so far. Learned State counsel submits that the custody certificate in this case is not available today, however, she has stated that the petitioner is in custody since 07.04.2023. Learned counsel further points out that the petitioner is also involved in another FIR bearing No.714 dated 18.9.2022, under Section 25 of the Arms Act, registered at Police Station Sector 58, Faridabad.

I have heard learned counsel for the parties and gone through the case file carefully.

Without commenting on the merits of the case, however, keeping in view the totality of facts and circumstances of the case, including the fact that the trial of the case is likely to consume considerable time as after framing of the charges on 13.9.2023, no prosecution witness has been examined so far; and keeping in view the custodial period of the petitioner; his further custody may not be justified. Therefore, without meaning any expression of opinion on

the merits of the case, it is ordered that the petitioner-Salamuddin @
Cheema s/o Khurshid Ahmed be released on regular bail subject to his
furnishing requisite bail bonds/surety bonds to the satisfaction of the
trial Court/Duty Magistrate, concerned.

The petition is allowed.

October 19, 2023

Vijay Asija

(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned Yes / No

Whether Reportable Yes / No