

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

217

CRM-M-69-2023

Date of Decision: 09.03.2023

Manpreet Singh

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Mr. Jagjit Singh Gill, Advocate for the petitioner

Ms. Dimple Jain, AAG, Haryana
(assisted by ASI Rajpal Singh)

JAGMOHAN BANSAL, J. (Oral)

1. The petitioner, through instant petition under Section 439 Code of Criminal Procedure, 1973 (for short 'Cr.P.C.') is seeking regular bail in FIR No.0364 dated 06.08.2022 under Sections 341, 354, 354-D, 365 & 506 of Indian Penal Code, 1860 (for short 'IPC') and under Section 12 of Protection of Children from Sexual Offences Act, 2012 (for short 'POCSO Act'), registered at Police Station Sadar Sirsa, District Sirsa.

2. The case of the prosecution is that police received complaint dated 06.08.2022 of the complainant/victim averring that she is about 15 years old and studying in 10th standard in Government Senior Secondary School, Satnam Chowk, Sirsa. For the last 3 years, Manpreet Singh used to follow her on the way to school and harass her. On 02.08.2022 at about 3 PM, she was going to house of her maternal uncle Angrej Singh,

Manpreet Singh met her on the way and told her that he loves her and wants to have friendship with her but she refused. On 05.08.2022, when her school was over, Manpreet Singh was standing out of gate of school on motorcycle and asked her to sit on motorcycle and told her that he would drop her to her house. She sat on motorcycle and he took her away outside a hotel at Ambedkar Chowk and while he was parking his motorcycle, his brother, namely, Arshdeep came there and inquired them that how were they present there. Manpreet Singh got frightened and fled away from there.

3. Learned counsel for the petitioner, *inter alia* contends that prosecutrix in her cross-examination has deposed that she does not remember the exact date when accused stood on her way to school. She did not inform this fact to her mother or any one of the family members that he used to stalk her. He is her uncle so there was no question of marriage. He did not attempt to catch hold her hands. He did not sexually assault her.

From the perusal of FIR and cross-examination, it comes out that no offence under Section 341, 354, 365 and 506 IPC is made out. At the most, offence under Section 354-D IPC and Section 12 of POCSO Act is made out. The maximum sentence prescribed under Section 354-D IPC is 5 years and under Section 12 of POCSO Act, it is 3 years. The petitioner is in custody since 03.09.2022 and he is not involved in any other offence. The petitioner has been wrongly implicated in the

commission of alleged offence. The petitioner is permanent resident of District Sirsa. The petitioner has deep roots in the society. There is no possibility of flee from justice.

4. Custody certificate dated 06.03.2023 is taken on record. Registry is directed to tag the same at appropriate place. As per custody certificate, the petitioner is in custody since 04.09.2022 and he is not involved in any other offence.

5. Learned State counsel submits that police report has already been filed and charges stand framed. She further submits that out of 15 witnesses, 1 has been examined i.e. the prosecutrix.

6. In the case in hand, *prima facie* petitioner is accused of commission of offence punishable under Section 354-D of IPC and Section 12 of POCSO Act and the maximum sentence prescribed under Section 354-D IPC is 5 years whereas under Section 12 of POSCO Act, it is 3 years. The petitioner is not involved in any other offence and he is custody since 03.09.2022. There are 15 prosecution witnesses and till date only 1 has been examined, thus, there is abysmally low possibility of conclusion of trial in near future. The material witness i.e. prosecutrix stands examined. As prosecution has right to arrest, investigate the matter and restrain an accused from manipulating or winning over witnesses, similarly accused in view of Article 21 of the Constitution of India has right to defend himself and put forth his stand which cannot be possible while in custody. The prosecution has not led any

convincing/plausible documentary or oral evidence indicating possibility of petitioner being flee from justice or tampering the evidences or winning over/threatening the witnesses.

7. In view of afore-stated facts and circumstances, this Court is of the considered opinion that present petition deserves to allowed and accordingly allowed. The petitioner is ordered to be released on bail subject to conditions as may be imposed by Trial Court/Illaq/Duty Magistrate concerned.

8. Nothing observed hereinabove shall be construed as expression of opinion of this Court on merits of the case and Trial Court shall proceed without being prejudiced by observations of this Court.

(JAGMOHAN BANSAL)
JUDGE

09.03.2023
Mohit Kumar

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