

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

284

CRM-M No.61262 of 2023
Date of decision: 12.12.2023

Sukhdev Singh Banga

... Petitioner

Vs.

State of Punjab and another

... Respondents

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Saurav Bhatia, Advocate,
for the petitioner.

Mr. Kunwarbir Singh, AAG, Punjab,
for the respondent-State.

MANISHA BATRA, J.

1. The present petition has been filed under Section 439 of Cr.P.C. for grant of regular bail to the petitioner in case bearing FIR No.154 dated 03.09.2023 registered under Sections 354-A and 506 of IPC and Section 8 of Protection of Children from Sexual Offences Act, 2012 (For short “POCSO Act”) and Section 354 of IPC and Section 10 of POCSO Act was added later on at Police Station Garhshankar, District Hoshiarpur.

2. Brief facts relevant for the purpose of disposal of this petition are that the aforementioned FIR was registered on the basis of statement recorded by complainant “C” (name withheld) alleging therein that the petitioner had been visiting their house from the last two months. About

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10 days back, her father had gone to take medicine and her mother had gone for performing her job. She was alone when the petitioner came to her house. He entered inside the room where she was present and with an evil intention, he caught hold of her breasts and started exerting force upon her. She tried to rescue herself and rushed outside in the courtyard of her house when her brother “H” (name withheld) also reached there in the meantime, on seeing whom, the petitioner left that place while extending threats to kill her mother and herself, if she disclosed about the incident to anyone. She stated that she had disclosed about the incident to her mother only on the date when the matter was being reported to the police. After registration of FIR, investigation proceedings were initiated. The petitioner was arrested on 03.09.2023. The offences under Sections 354 of IPC and Section 10 of POCSO Act were added later on. After completion of investigation and usual formalities, challan has been presented in the Court.

3. The present petition has been filed by the petitioner on the grounds and it has been argued by his counsel that he has been falsely implicated in this case. There was delay of 10 days in reporting the matter to the police which has not been satisfactorily explained by the prosecutrix. Investigation has completed. His custodial interrogation is not required. Trial is likely to take time. The father of the prosecutrix and her close relatives have sworn affidavits in favour of the petitioner to the effect that the petitioner has been falsely implicated in this case as he was helping the maternal aunt (Mami) of the prosecutrix in a case of

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matrimonial dispute with her husband i.e. maternal uncle (Mama) of the victim. With these broad submissions, he has argued that the petition deserves to be allowed.

4. Per contra, learned State counsel has vehemently argued that there are serious allegations against the petitioner. The victim is yet to be examined. There are chances of his intimidating the prosecutrix and other material witnesses. The affidavits alleged to be sworn by the father and other relatives of the prosecutrix cannot be considered at this stage. Hence, he argued that the petition does not deserve to be allowed.

5. The petitioner is alleged to have sexually assaulted and criminally intimidated the prosecutrix 10 days prior to the lodging of FIR. He is in custody for a period of about three and half months. The investigation has since been completed. Trial is likely to take time. He has annexed with the petition Annexure P-5 copy of an affidavit shown to be sworn by the father of the prosecutrix to the effect that his daughter on asking of her maternal uncle has got registered FIR against the petitioner on account of a matrimonial dispute with his wife “K” as the petitioner has helped the said “K”. Annexure P-3 is copy of an affidavit shown to be sworn by “K” (maternal aunt of the prosecutrix) to the same effect. Affidavits of some other relatives of the prosecutrix have also been placed on record. Though these affidavits cannot be taken into consideration at this stage and the veracity of the same would have to be proved by the petitioner at the time of trial, however, keeping in view the nature of the subject offences, the fact that the petitioner had spent a

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period of about three and half months in custody further substantiated by the fact that his custodial interrogation is no more required and the trial is likely to take time but without meaning to comment on the merits of the case, I am of the considered opinion that no useful purpose would be served by keeping the petitioner in custody any more. Hence, the petition is allowed and the petitioner is ordered to be admitted to bail subject to his furnishing personal as well as surety bonds to the satisfaction of learned trial Court concerned.

12.12.2023

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(MANISHA BATRA)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No