**IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA**

**Cr. MP (M) No.1449 /2024.**
**Date of Decision: 20th December, 2024.**

Sameer .....Petitioner.

Versus

State of Himachal Pradesh .....Respondent.

*Coram*
***The Hon'ble Mr. Justice Bipin Chander Negi, Judge.***
***Whether approved for reporting?[1]***

For the Petitioner: Mr. Vinod Chauhan, Advocate.

For the Respondent: Mr. R.K. Negi, Addl. Advocate General, for respondent-State.

***Bipin Chander Negi, Judge*** *(oral).*

The present bail petition has been filed under Section 482 of the Bharatiya Nagarik Suraksha Sanhita (BNSS) for grant of anticipatory bail. The same arises out of FIR No.50 of 2024, dated 28.03.2024, registered at Police Station Majra, District Sirmaur, HP under Section 376 of the IPC and Section 17 of the POCSO.

2. The main accused, in the case at hand, is one Dilshad. The said Dilshad is accused of having committed offence under Section 376 of the IPC read with Section 6 of the POCSO Act.

3. On 28.03.2024, when brother of the victim came home, he found that victim was not at home. Adjacent to his house, there is a school. Outside the school he had seen a motorcycle bearing No.HR-02-A-8942 parked. On entering the school, he found his sister with Dilshad. The sister (victim) is alleged to be 17 years of age. The bail petitioner as per the brother of the

[1] Whether reporters of Local Papers may be allowed to see the judgment?

victim was standing outside the school in order to warn Dilshad of any impending approaching danger.

4. The main accused, in the case at hand, Dilshad has not been enlarged on bail with respect to the incident dated 28.03.2024, in the case at hand. The principal allegation against the bail petitioner is under Section 17 of the POCSO Act for abetting the offence in the case at hand. Investigation is complete. Challan stands filed on 24.05.2024 before the competent Court. No recovery is to be instituted from the present petitioner and neither custodial interrogation of the present petitioner is required.

5. The charges against the petitioner are yet to be proved. Pre-trial incarceration is not the rule. Detailed examination of evidence collected is not required to be done at this stage. A person presumed innocent is subjected to psychological and physical deprivations of jail. Further, a jailed individual is prevented from contributing to the preparation of his defence. The petitioner is a permanent resident of Village Palhodi, PO Dhaulakuan, Tehsil Paonta Sahib, District Sirmaur, Himachal Pradesh and the respondent-State has not expressed any apprehension of the petitioner fleeing from justice. In any case, the petitioner can be put to terms for the purpose of safe, secure and unobstructed completion of trial.

6. Accordingly, the bail application is allowed and interim protection dated 05.07.2024 is made absolute, subject to following conditions:-

***(i) The petitioner shall join the investigation of the case as and when called for by the Investigating Officer in accordance with law and shall cooperate with the Investigating Agency.;***

***(ii) The petitioner shall not tamper with the evidence or hamper the investigation in any manner whatsoever.;***

***(iii) The petitioner shall not contact the complainant, threaten or browbeat him or to use any pressure tactics in any manner whatsoever;***

***(iv) Petitioner shall not make any inducement, threat The petitioner shall not leave India without prior permission of the Court.;***

***(v) The petitioner shall not make any inducement, threat or promise, directly or indirectly, to the Investigating Officer or any person acquainted with the facts of the case to dissuade him from disclosing such facts to the Court or any Police Officer;***

***(vi) The petitioner shall attend the trial on every hearing, unless exempted in accordance with law.***

***(vii) The petitioner shall inform the Station House Officer of the concerned Police Station about his place of residence during bail and trial. Any change in the same shall also be communicated within two weeks thereafter. Petitioner shall furnish furnish details of his Aadhar Card, Telephone Number, E-mail, PAN Card, Bank Account Number, if any***

7. In case of violation of any of the terms & conditions of the bail, respondent-State shall be at liberty to move appropriate application for cancellation of the bail. It is made clear that observations made above are only for the purpose of adjudication of instant bail petition and shall not be construed as an opinion on the merits of the matter. Learned trial Court shall decide the matter without being influenced by above observations.

With the aforesaid observations, the present petition stands disposed of, so also the pending miscellaneous applications, if any.

Downloaded copy of this judgment is valid for compliance.

**(Bipin Chander Negi)**
**Judge**

20th December, 2024
(Gaurav Rawat)