

311
IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-256-2024 (O&M)
Date of decision : 10.04.2024

Sanjay Kumar ... Petitioner(s)
Versus
State of Haryana ... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Aditya Jain, Advocate
Mr. Rahul Vohra, Advocate and
Mr. Rohit Gupta, Advocate for the petitioner.
Mr. Saurabh Girdhar, AAG Haryana.

ALKA SARIN, J. (ORAL)

1. This is the first petition under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the petitioner in FIR No.79 dated 14.07.2023 under Sections 4 and 8 of the Protection of Children from Sexual Offences Act, 2012 and Sections 354-A, 354-C, 376 and 506 of the Indian Penal Code, 1860, registered at Police Station Women, Rohtak (Annexure P-2).
2. Though the Roster of this Court is Civil, however, since the petition for anticipatory bail being CRM-M-42512-2023 was decided by this Court while sitting in the Roster of Crime Against Women, hence, the present petition has been listed before this Court.
3. Brief facts relevant to the present case are that the victim who was a student of Class XII had given a complaint that her uncle i.e. the

petitioner herein who was residing in the same house had molested her on few occasions and she had also caught him watching her while she was having a bath. The said incidents pertained to the year 2022. It was further stated in the complaint that on 12.07.2023 her uncle (petitioner herein) molested her and put his hand on her chest and threatened to kill her if she told this to anyone. Her statement was recorded under Sections 161 and 164 CrPC wherein she has supported the prosecution case.

4. Learned counsel for the petitioner would contend that the statements of the victim and her mother have since been recorded and the same have been appended with the present petition as Annexures P-7 and P-8 wherein they have both not supported the case of the prosecution. It is further the contention of learned counsel for the petitioner that the petitioner has been in custody for a period of 07 months and 09 days and that there is no other case pending against him.

5. Learned State counsel has filed the status report by way of affidavit of Virender Singh, HPS, Deputy Superintendent of Police, CAW, Rohtak which is taken on record. The learned counsel for the State has pointed out that the victim had duly supported her case in her statement recorded under Section 164 CrPC. The learned State counsel has also filed the custody certificate and as per the custody certificate the petitioner has been in custody for a period of 07 months and 09 days and there is no other case pending against him.

6. Heard.

7. In the present case though in her statement recorded under Section 164 CrPC the victim had supported the case of the prosecution, however, as per the status report both the victim and her mother have been declared as hostile. It would be a matter of trial whether the allegations are found to be correct as levelled in the FIR. As per the custody certificate the petitioner has been in custody for a period of 07 months and 09 days and there is no other case pending against him. The trial is likely to take some time to conclude and no useful purpose would be served by keeping the petitioner behind the bars any further.

8. In view of the above and without commenting upon the merits of the case, this Court deems it to be a fit case to grant the concession of regular bail to the petitioner. The petitioner is directed to be released on bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the Trial Court/Additional Sessions Judge (Duty) concerned.

9. However, the Prosecution will always be at liberty to apply for cancellation of bail in case the petitioner is found to be misusing the concession of bail in any manner.

10. It is also made clear that any observation made herein shall not be treated as an expression of opinion on the merits of the case.

11. Disposed off. Pending applications, if any, also stand disposed off.

10.04.2024

Yogesh Sharma

(ALKA SARIN)

JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO