

216 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-3091-2023
Date of decision: 18.01.2024

PINTU

.....Petitioner

versus

STATE OF HARYANA

.....Respondent

CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Present: Mr. Gaurav Grover, Advocate and
Ms. Charu Sharma, Advocate
for the petitioner.

Mr. Amrik Singh Narwal, D.A.G., Haryana.

HARPREET KAUR JEEWAN, J. (ORAL)

1. The instant petition has been filed by the petitioner under Section 439 of the Code of Criminal Procedure, 1973 seeking regular bail in case FIR No.867 dated 20.12.2021, under Section 506 IPC and Section 6 of POCSO Act, 2012, registered at Police Station Samalkha, District Panipat (Annexure P-1).

2. The petitioner is facing trial with the allegations that on 20.12.2021, at about 2:00 PM, the petitioner had sexually harassed the 4-year old daughter of the complainant, who was present at home when the complainant-mother had gone out of the house to collect wood. When the complainant came back to her home, her daughter was crying and when she asked her daughter about what happened, she told her about the wrongful act committed to her by the petitioner.

3. Learned counsel for the petitioner contends that the petitioner has been falsely implicated in this case. In the statement of the victim recorded under Section 164 Cr.P.C., the victim has taken a different stand. As per the Medico Legal Report, no external injury was found on the person of the victim. The petitioner is a

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I attest to the accuracy and
integrity of this order/judgment.

4. Learned State counsel has opposed the bail application on ground of the gravity of allegations levelled against the petitioner.

5. I have considered the aforesaid contentions. The victim as well as her mother have supported the prosecution case during trial. As per the status report filed by the State, after registration of the FIR, the statement of the victim was also recorded by the Magistrate under Section 164 Cr.P.C. and as per the said statement (Annexure R-3), in response to Question No.8, the victim has made the following statement:-

“Pintu has come to my house. He has teased on my Su-Su and back side. He has also taken out his Su-Su.”

In response to Question No.9, the victim has answered as under:-

“He had pressed my mouth and said that he will repeat again the same thing. He was putting his Su-Su in my mouth. He tried to push my mouth towards him. He said me to eat it and do not disclose about it to my parents.”

6. The victim has even appeared before the trial Court as Witness No.2 (Annexure R-5) and she supported the prosecution version. As per the testimony of the mother of the victim (Annexure R-4), the petitioner is residing in their neighbourhood.

7. In view of the medical examination of the victim, injury to the victim cannot be ruled out in view of the following observations:-

“Fourchette and introitus:

Redness present at the introitus, hymen intact, no bleeding present at the time of examination.”

8. The argument that the petitioner is a handicapped person is a matter of trial. As per the medical examination of the petitioner (Annexure R-2), the following medical opinion has been given:-

“Opinion- On my clinical examination, I am of the opinion that there is nothing to suggest that the person examined is incapable of performing sexual intercourse on date and time of examination.”

9. No doubt, the petitioner is in custody during trial, but keeping in view the tender age of the victim-child and the allegations of sexual harassment/abuse, it is not a fit case where the petitioner should be released on regular bail, as the petitioner is residing in the neighbourhood of the victim and there are chances of repeating the said occurrence by him.

10. Consequently, the present application stands dismissed.

11. However, nothing expressed hereinabove would be construed to be an expression of opinion on merits of the case.

(HARPREET KAUR JEEWAN)
JUDGE

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<i>Whether speaking/reasoned</i>	:	<i>Yes/No</i>
<i>Whether reportable</i>	:	<i>Yes/No</i>