



Sr. No.308

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

**CRA-S-430-2024 (O&M)
Date of decision: 13th August 2024**

SHAKIL KUMARAppellant

versus

STATE OF HARYANA AND ANOTHERRespondents

CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Present: Mr. Sukhvir Singh Sahu, Advocate
for the appellant.

Mr. Pawan Kumar Jhanda, DAG, Haryana.

None for respondent No.2.

HARPREET KAUR JEEWAN, J. (ORAL)

1. The present appeal has been filed for setting aside the order dated 15.01.2024, passed by the learned Additional Sessions Judge, Fatehabad, whereby the petition filed under Section 439 Cr.P.C. has been dismissed.

2. Learned counsel for the appellant *inter alia* contends that the appellant is in judicial custody since 09.12.2023. The statement of the prosecutrix has already been recorded by the trial Court. The allegations are only under Section 8 of the Protection of Children from Sexual Offences Act, 2012 and Section 3(1)(w) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

3. Learned State counsel has confirmed that the statement of the prosecutrix has been recorded. However, he submits that the age of the prosecutrix is 12 years, as such, the offence alleged to have been committed by the appellant, is serious in nature.



4. As per office report, notice issued to respondent No.2 was duly served, however, none has put in appearance on his behalf.

5. I have considered the aforesaid contentions and perused the paper book.

6. The case was registered at the instance of the mother of the prosecutrix with the allegations that her daughter, aged about 12 years, is a student of VIIth standard. On 06.12.2023, when the victim was in her school, she felt pain in her finger due to an injury. The teacher sent the victim to the shop of the appellant for taking medicine with the permission of her mother/complainant. While examining the injury on the finger of the victim, the appellant asked the victim to lie down on the bed and he inappropriately touched her hips, hugged and kissed her.

7. Investigation is complete. Final report/challan under Section 173 Cr.P.C. has been presented before the trial Court. Statement of the prosecutrix has already been recorded, as such, there is no apprehension of tampering with the prosecution evidence.

8. Offence under Section 8 of the Protection of Children from Sexual Offences Act, 2012, is punishable with maximum imprisonment of 05 years. The appellant has already undergone custody of more than 06 months. Conclusion of trial is likely to take some time as only one prosecution witness has been recorded so far. No useful purpose would be served by keeping the appellant in custody during the trial, as such, without expressing anything on the merits of the case and keeping in view the above facts, the present appeal is allowed. The impugned order dated 15.01.2024, passed by the learned Additional Sessions



9. The appellant is ordered to be released on regular bail, subject to his furnishing adequate bail bonds and surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate, Fatehabad.

10. Pending miscellaneous application(s), if any, shall stand disposed of.

(HARPREET KAUR JEEWAN)
JUDGE

13th August 2024
simran

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