

CRM-M-9148-2024

-1-

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

206

CRM-M-9148-2024
Date of decision:15.07.2024

MOHAN KUMAR

... PETITIONER

VERSUS

STATE OF HARYANA

... RESPONDENT

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Munish Behl, Advocate for the petitioner.
Mr. Aman Bahri, Addl. A.G., Haryana.

SUVIR SEHGAL J. (ORAL)

1. This is the 3rd petition filed by the petitioner under Section 439 of Cr.P.C. for grant of regular bail in:-

FIR No.	Dated	Police Station	Sections
65	04.06.2021	Women Police Station Faridabad, District Faridabad	8 of the Protection of Children from Sexual Offences Act, 2012, (for short “POCSO Act”), however, Section 10 of POCSO Act, was added later on.

2. Version of the prosecution is that FIR, Annexure P-1, has been lodged on the statement of mother of a 11 years old young girl (hereinafter referred to as “the prosecutrix”) stating that Mohan Lal (present petitioner) called her to a relative's home on 06.04.2021. He is alleged to have taken off her clothes, clicked her

**CRM-M-9148-2024****-2-**

photographs and kissed her. She disclosed the incident to her mother, who lodged the FIR.

3. Counsel for the petitioner contends that the petitioner has been falsely implicated and the FIR is a counter blast to a minor dispute between the parties. He asserts that there is an unexplained delay of more than two months in the registration of the FIR. He submits that the petitioner, who is in custody since 05.06.2021, deserves to be released on bail as despite orders passed by this Court during the pendency of this petition, prosecution has failed to conclude the evidence.
4. Per Contra, learned State counsel, upon instructions, has opposed the petition. By making a reference to the affidavit filed on behalf of the respondents, he submits that the petitioner is accused of indecent behaviour with a young girl of an innocent age. He submits that the prosecutrix has supported the case of the prosecution. Explaining the delay, State counsel has filed a short reply on behalf of the respondents, which is taken on record, wherein it has been deposed that 11 out of 13 prosecution witnesses have been examined, however, some record has been summoned pursuant to an order passed by the Trial Court on an application moved under Section 319, Cr.P.C. State counsel could not dispute the antecedents of the petitioner. He submits that the prosecution is likely to conclude the evidence within a short period.
5. I have heard counsel for the parties and considered their respective submissions.

6. Petitioner is accused of offences under Sections 8 and 10 of the POCSO Act, which entails a maximum imprisonment of 5 years and 7 years, respectively. He has already undergone a sentence of more than 37 months. The prosecutrix as well as her mother have been examined and some formal witnesses remain. This Court is of the view that as the allegations are debatable and would be examined by the Trial Court. Considering the length of detention of the petitioner, he deserves the concession of bail.
7. Without adverting to the merits or de-merits of the arguments addressed, petition is allowed. Petitioner is ordered to be released on bail on furnishing bail/surety bonds to the satisfaction of the Trial Court/Duty Magistrate concerned.
8. While being released on bail, petitioner shall furnish an undertaking by way of an affidavit to the effect that he will not try to contact the prosecutrix, her family or any prosecution witnesses or try to intimidate them during the pendency of the trial. In case, the petitioner violates the condition imposed by this Court, State shall be at liberty to seek cancellation of bail.
9. Any observation made hereinabove shall not be construed to be an expression of opinion on the merits of the case.

15.07.2024

(SUVIR SEHGAL)

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JUDGE

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No