

Sr. No.107+226
IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-18057-2024 in/and
CRM-M-9468-2024
Date of decision: 03rd May, 2024

PANKAJ **.....Petitioner**

versus

STATE OF HARYANA **.....Respondent**

CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Present: Mr. Rakesh Kumar Lathwal, Advocate
for the petitioner.

Ms. Mayuri Lakhanpal Kalia, DAG, Haryana.

HARPREET KAUR JEEWAN, J. (ORAL)

CRM-18057-2024

Allowed as prayed for. Annexures P-4 to P-9 are taken on record,
subject to all just exceptions.

CRM-M-9468-2024

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.704 dated 28.09.2023, under Section 354-A of IPC, 1860 and Section 8 of Protection of Children from Sexual Offences Act, 2012, registered at Police Station Kundli, District Sonipat.
2. Learned State counsel has filed status report dated 01.05.2023, by way of affidavit of Sh. Mukesh Kumar, HPS, Assistant Commissioner of Police, Rai, Sonipat, on behalf of respondent-State of Haryana, along with Annexures R-1 and R-2, which are taken on record.

3. Learned State counsel has confirmed the fact that the statements of both the child victims have been recorded during the trial and their medico-legal reports are Annexures P-4 and P-5.

4. The FIR was registered on the basis of the complaint given by the mother of the victim ("RXX", who is aged 08 years), with the allegations that on 23.09.2023 at about 02:00 PM, the petitioner had inappropriately touched the minor victim and also inserted his private part in her mouth. However, the victim ran away from the spot. It was further informed that the petitioner had committed a similar act with another girl victim "SA", who is aged about 11 years. The statements of both the victims were recorded under Section 164 Cr.P.C. (Annexures R-1 and R-2) on 28.09.2023 and 28.10.2023 respectively.

5. The statement of the child victim "SA" was recorded under Section 164 Cr.P.C. (Annexure R-1) on 28.09.2023, as per which, though the petitioner had touched her inappropriately, however, she has not supported the prosecution case in her testimony recorded during the trial (Annexure P-2) and she was declared hostile. There is an endorsement on the medico-legal report of the victim "SA" (Annexure P-4), which is alleged to have been made by the mother of the prosecutrix refusing for conducting her medical examination and stating that rape has not been committed upon the prosecutrix and it was only a case of inappropriate touching. This fact has also been reiterated in Para No.5 of the status report.

6. However, the second victim "SA", who is alleged to be 11 years old, has neither supported the prosecution case in her statement recorded under Section 164 Cr.P.C. (Annexure R-2) nor in her deposition before the trial Court (Annexure P-7). The testimony of the mother of the alleged second victim "SA" has also been

prosecution case. It is further noticed that the second victim has reiterated in her statement recorded under Section 164 Cr.P.C. (Annexure R-2) as well as in her statement recorded during the trial (Annexure P-7) that she was prompted by the first victim “RXX” to speak foul against the petitioner for which, she would be rewarded with money. However, she refused to do so.

7. Investigation is complete. Charges have been framed. Final report/challan under Section 173 Cr.P.C. has been presented. All the material witnesses have been recorded. Conclusion of trial is likely to take some time. No useful purpose would be served by keeping the petitioner in custody during trial.

8. Keeping in view the aforesaid facts and circumstances and without commenting on the merits of the case, the present petition is allowed. The petitioner 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/Duty Magistrate concerned.

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

(HARPREET KAUR JEEWAN)

JUDGE

03rd May, 2024

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Whether speaking/reasoned

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Yes/No

Whether reportable

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Yes/No