

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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CRM-M-19008-2024 (O&M)

Date of order: 02.05.2024

Khalid

.....Petitioner(s)

Vs.

The State of Haryana

.....Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Arav Gupta, Advocate
for the petitioner.

Mr. Surinder Kumar Dagar, DAG Haryana.

Nidhi Gupta, J.

Present is the **first** petition filed by the petitioner under Section 439 of Code of Criminal Procedure (hereinafter referred to as "Cr.P.C.") seeking grant of regular bail in case FIR No.56 dated 26.05.2023 registered under Sections 328/506 IPC and Sections 17/6 POCSO Act, 2012 at Women Police Station Ballabgarh, District Faridabad, Haryana.

2. FIR in the present case was registered on the basis of statement of the father of the victim, which is reproduced hereinbelow:-

"To SHO, Women Police Station Ballabgarh. Sir, It is submitted that I am Vinod Kumar S/O Bhagwati Prasad resident o Rakesh Gurjar wali gal, Subash Colony Ballabgarh. My daughter is 16 years old. She has been enticed and trapped of love since three months by one Prashant. On dated 1.4.23, first time he had developed physical relation with my daughter by giving her intoxicated pills in Shanti Oyo Place Hotel, Railway Road Ballabgarh. Subsequently, on dated 19.5.2023, again he had developed physical relation forcefully by blackmail my

daughter and called her in same hotel at about 2:00 at noon. When my daughter refused, Prashant threatened to kill her. Thereafter, Khaleel, friend of Prashant alongwith him came at our home and threatened to kill if filed any complaint to police, we shall be eliminated. Legal action be taken against Prashant and Khaleel. Justice be done. Today, my daughter told me all these facts. My daughter has cut her hand. Appropriate action be taken. Vinod Kumar 26.5.2023.”.

3. It is inter alia submitted by learned counsel for the petitioner that a bare reading of the above said FIR itself evidences that there are no allegations against the petitioner of any wrongful act or of abetment of any act committed by the main accused Prashant. Learned counsel refers to the definition of abetment as contained in Section 16 of the POCSO Act and submits that the allegations made against the petitioner in the above said FIR do not constitute an offence therein and therefore, the petitioner has been wrongly charged under Section 17 of the POCSO Act and Section 506 IPC. It is further submitted that even the victim in her statement under Section 161 Cr.P.C. (Annexure P2) or in her statement under Section 164 Cr.P.C. (Annexure P3) and even in her statement before the Child Welfare Committee (Annexure P4) has reiterated the contents of the FIR inasmuch as the petitioner is only alleged to have accompanied the main accused Prashant and threatened the victim. It is submitted that the petitioner has been in custody since 27.05.2023; and therefore, no purpose would be served by further detention of the petitioner.

4. Learned State Counsel files custody certificate dated 24.04.2024, which is taken on record. As per the custody certificate, the petitioner has been in custody as under trial for 10 months and 28 days.
5. I have heard learned counsel for the parties.
6. Without commenting on the merits of the matter, however, keeping in view the totality of the facts and circumstances of the present case, including the fact that as per the custody certificate, the petitioner is behind bars for the last 10 months and 28 days; there is no other case against the petitioner; the fact that out of 19 prosecution witnesses, none has been examined so far; conclusion of trial will take time; and no useful purpose would be served by further detention of the petitioner; present petition is **allowed**. Petitioner namely Khalid s/o Juber Khan, is directed to be released on regular bail on his furnishing bail and surety bonds to the satisfaction of the concerned trial Court/Duty Magistrate.
7. However, it is made clear that nothing stated above shall be construed as an expression of opinion on the merits of the case.
8. Pending application(s) if any also stand(s) disposed of.

02.05.2024
Sunena

(Nidhi Gupta)
Judge

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No