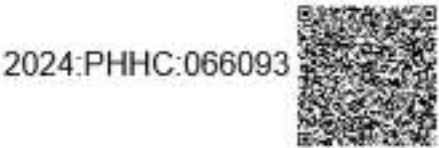


Neutral Citation No. 2024:PHHC: 066093



IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

207

CRM-M-22313-2024 (O&M)
Date of decision: 09.05.2024

Harender ...Petitioner
Versus
State of Haryana ...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Shiv Kumar, Advocate
for the petitioner.

Mr. Ashish Bishnoi, AAG, Haryana.

MANISHA BATRA, J. (Oral)

1. This petition has been filed by the petitioner under Section 439 Cr.P.C. seeking regular bail in case bearing FIR No. 87 dated 08.07.2022, registered under Sections 148, 149, 323, 506 of IPC and Sections 10 and 12 of the POCSO Act, 2012 at Police Station Women Ballabhgarh, District Faridabad.
2. Brief facts of the case relevant for the purpose of disposal of this petition are that on 08.07.2022, the complainant 'C' (*name withheld*) submitted a written complaint at the police station alleging therein that on 05.07.2022 at about 11:00 AM, the victim 'I' (*name withheld*), who is her six years' old daughter, was alone in the house, whereas her husband and herself were out of their house. On reaching home, she found the petitioner while doing obscene acts with her daughter. The victim was sitting in his lap and he

Neutral Citation No. 2024:PHHC: 066093

had made her to take his private part into her hands and she was crying. On seeing them, the petitioner fled away. She reported the incident to her family members and then the complaint was made to the family members of the petitioner. She alleged that the petitioner along with ten unknown persons and the co-accused entered into her house, while armed with weapons and opened an attack on her family members and herself. She along with other injured Chandni, Mamta Meghraj and Manish were admitted in the hospital. A complaint was lodged by her at Police Station Chandwali on 06.07.2022 but no action was taken and, therefore, she prayed for taking action in the matter. Initially, a case under Sections 148, 323, 452 and 506 read with Section 149 of IPC and Sections 10 and 12 of the POCSO Act was registered. Investigation proceedings were initiated. The statement of the victim was got recorded in the presence of the Legal Advisor. Her statement under Section 164 of Cr.P.C. was also recorded. During investigation, offences under Section 452 of IPC and Sections 10 and 12 of POCSO Act were deleted. The co-accused Ram Kishan, Laxmi, Kusum, Anjana, Mohit and the present petitioner was joined into investigation and were extended benefit of bail. After completion of necessary investigation and usual formalities, challan under Section 173 of Cr.P.C. was prepared and presented in the Court. Subsequently, the complainant filed an application under Section 190 read with Section 209 of Cr.P.C. before the Court of learned Judicial Magistrate for adding the provisions of POCSO Act and for sending the case to the Court of Sessions/POCSO Court for trial. This application was allowed, vide order dated 18.01.2024 by the Judicial Magistrate and it was ordered that there was a *prima facie* case indicating the involvement of the petitioner and to justify

Neutral Citation No. 2024:PHHC: 066093

the sending of the matter to the POCSO Act for further proceedings. The petitioner was thereafter taken into custody. He had moved an application for grant of bail before the trial Court but the same had been dismissed, vide order dated 24.04.2024.

3. The present petition has been filed by the petitioner on the grounds and it has been argued by his counsel that he has been falsely implicated in this case. He is in custody since 18.01.2024. The investigation stands completed. His custodial interrogation is not required. His detention would not serve any useful purpose. In fact, on 05.07.2022, the members of complainant party had opened an attack on them at 01:00 PM when they were at their house and had caused injuries to them and in this regard, an FIR bearing No. 215 dated 06.07.2022 was registered under Sections 148, 149, 323, 452 and 506 of IPC as against them. Even challan has been presented against the members of the complainant party. The FIR of this case is a counterblast to the said FIR as lodged by him. The police, after conducting a thorough investigation in the matter, had deleted the offences under the POCSO Act as no evidence was found qua complicity of the petitioner in the said crime. He has clean antecedents. He has a permanent abode. There are no chances of his absconding. The trial is likely to take time. Therefore, it is argued that the petition deserves to be allowed.

4. Per contra, learned State counsel has argued that since there are serious and specific allegations against the petitioner, therefore, he does not deserve to be given benefit of bail,.

5. I have heard learned counsel for the parties at considerable and have also gone through the record carefully.

Neutral Citation No. 2024:PHHC: 066093

6. It has been revealed from the record that the FIR of this case was registered on the basis of the allegations that 05.07.2022, the petitioner was found committing obscene acts with the daughter of the complainant and sexually harassing and assaulting her by making her sit on his lap and to hold his private part. The challan report reveals that the allegations so levelled were found to be false after conducting a thorough investigation. The Judicial Magistrate allowed the application under Section 190 of Cr.P.C. as filed and has sent the case to the POCSO Court. Custodial interrogation of the petitioner is not required anymore. The petitioner is in custody for the last about four months. The trial is likely to take time. It has also come on record that prior to lodging of the FIR of this case, an FIR had been lodged by the petitioner against the complainant party. Taking all these circumstances into consideration, I am of the considered opinion that the petitioner deserves to be given benefit of bail.
7. Accordingly, the present petition is allowed and the petitioner is ordered to be released on regular bail, subject to his furnishing personal/surety bonds to the satisfaction of the trial Court/Duty Magistrate concerned.
8. It is made clear that any observation made herein above is only for the purpose of deciding the present petition and the same shall have no bearing on the merits of the case.

09.05.2024
Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned

Yes

Whether reportable

Yes