



**CRM-27822-2024 IN/AND
CRM-M-24718-2024 (O&M) - 1-**

**107+228 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CRM-27822-2024 IN/AND
CRM-M-24718-2024 (O&M)
Date of Decision: 16.07.2024**

KULDEEP

.....PETITIONER

Vs.

STATE OF HARYANA

.....RESPONDENT

CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Present:- Mr. Samay Singh Sandhawalia, Advocate,
for the applicant-petitioner.

Mr. Amrik Singh Narwal, D.A.G. Haryana.

HARPREET KAUR JEEWAN J.

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1. By this application, the applicant-petitioner seeks permission to place on record a copy of the application filed under Section 156 (3) Cr.P.C. before the learned trial Court as Annexure P-17 with the main petition.

2. The application is allowed. The aforesaid copy of the application is taken on record as Annexure P-17, subject to all just exceptions. Office to tag the same at appropriate place.

CRM-21594-2024

Application for leave to file the present application/petition without Number of Roll of Advocates, is allowed, as prayed for.

CRM stands disposed of.



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CRM-M-24718-2024

1. The prayer in this 2nd petition, which has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case bearing FIR No. 251, dated 18.08.2023, (Annexure P-1) under Section 354-A of the IPC and Section 10 of the Protection of Children from Sexual Offences, Act, 2012, registered at Police Station Murthal, District Sonipat.

2. The petitioner is an Archery coach at Shri Mata Vaishno Devi Sathapna Board, Katra Stadium. The FIR was registered against the petitioner with the allegations that the prosecutrix came to Sonipat for participation in the Youth Championship of Archery in the month of April 2023 and she was staying in a guest house. On 07.04.2023 in the early morning at around 04:00 a.m., the petitioner allegedly entered in the room of the prosecutrix and touched her inappropriately after which she freed herself and went to another room. It is further stated in allegations that on the night of 08.04.2023, the petitioner had been making calls to the prosecutrix asking her to sleep with him.

3. Learned counsel for the petitioner *inter alia* contends that the petitioner has been charged with Section 354-A of the IPC which provides maximum punishment for 03 years and Section 10 of the POCSO Act which provides maximum imprisonment of 07 years. The petitioner is a married man of about 40 years of age. The investigation is complete. The final report ('*challan*') under Section 173 Cr.P.C. has been presented before the Trial Court. Charges have also been framed.

3.1 He further contends that the first bail petition for grant of regular bail was dismissed, by this Court, vide its order dated 31.01.2024 passed in



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CRM-M-51782-2023, mainly on the ground that the prosecutrix still has to be examined. Now there is change of circumstances. After the dismissal of the first bail petition, the statement of the prosecutrix has been recorded on 22.03.2023, 03.05.2024 (Annexure P-2) and 22.05.2024 (Annexure P-15).

3.2 It is further contended that the petitioner was not present in the alleged '*Dhabha*' on the intervening night of 06/07.04.2023 and he was in Delhi as he had to go to drop his family members at the Indira Gandhi International Airport. A copy of the flight tickets are annexed as Annexure P-5. It is also contended that the friends of the prosecutrix who were allegedly informed about the alleged occurrence have stated that the prosecutrix did not disclose any such incident to them as per their statement recorded under Section 161 Cr.P.C. and as per their affidavits (Annexure P-6).

3.3 It is further contended that there is no CCTV footage on record showing the presence of the prosecutrix at the alleged place of occurrence on the intervening night of 06/07.04.2023.

3.4 Learned counsel further contends that the present FIR has been registered since the prosecutrix was issued a show cause notice on 22.12.2022 (Annexure P-8) regarding her absence from the national camp and about her unsatisfactory performance, a letter dated 17.04.2023 (Annexure P-9) was sent to her by the Archery Sports authority of India and putting out the prosecutrix from the archery team. It is further alleged that even the prosecutrix has moved a letter to the Sports Ministry in which allegations have been levelled against the petitioner that due to him and his influence she is not being allowed to join Sports Authority of India.



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3.5 It is further contended that the petitioner had gone to the house of the prosecutrix on 25.06.2023 to collect archery equipment. However, there was a scuffle between the petitioner and the family members of the victim, due to which a DDR of 25.06.2023 (Annexure P-11) was registered in Police Station, Farrukh Nagar and the statement of the prosecutrix was also recorded in the said DDR.

4. A reply, dated 20.06.2024, by way of an affidavit of Sh.Sandeep Singh, HPS, Assistant Commissioner of Police, Murthal, Sonipat, along with a copy of the statement of the victim recorded under Section 164 Cr.P.C. and a copy of the birth certificate of the victim as Annexures R-1 and R-2, has already been filed by learned State counsel. The same is taken on record.

5. Referring to the said reply, learned counsel for the State has opposed the present petition. However, he has confirmed the fact that the statement of the prosecutrix has been recorded before the trial Court but contends that the statement of the other witnesses are yet to be recorded. It is contended that on 07.04.2023, the victim had narrated the entire occurrence to her friends immediately after the occurrence and the chats between them started at 04:48 a.m. and continued till 05:33 a.m. and the said 'whatsapp' conversation has duly been retained in a pen drive. The prosecutrix was 17 years and 09 months of age on the date of alleged occurrence as her date of birth is 27.07.2005 (Annexure R-2).

5.1 Learned State counsel further contends that during the investigation, the entry record has been obtained from the xxx Guest House which corroborates the testimony of the prosecutrix regarding their stay in the said Guest House. Even the call details record and tower location of the



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mobile phones of the petitioner and the victim have been obtained and analyzed.

6. I have considered the contentions raised by learned counsel for the parties and have gone through the paper-book carefully.

7. As per the order dated 31.01.2024 passed in CRM-M-51785-2023 (Annexure P-4), the first bail petition filed on behalf of the petitioner, was dismissed primarily, on the ground that at that point of time, the statement of the prosecutrix was not then recorded. The allegations in the FIR and the counter-allegations levelled by the petitioner is a matter of trial. As per the aforesaid reply, there is no other criminal history of any other case against the petitioner.

8. Investigation is complete and the final report under Section 173 of the Code of Criminal Procedure has been presented before the trial Court. At present only one prosecution witness, i.e. the prosecutrix has been examined. The trial will take some time to conclude; and there is no apprehension of absconding of the petitioner during the trial. Without commenting on the merits of the case and keeping in view the above facts, the present petition is allowed.

9. The petitioner is ordered to be released on regular bail, subject to his furnishing adequate bail bonds and surety to the satisfaction of the trial Court/Duty Magistrate concerned and subject to the conditions fixed by the trial Court.

10. It is made clear that nothing observed hereinabove will be taken to be an observation on the actual merits of the case, which would be gone into by the learned trial Court wholly on the basis of evidence led/gathered before it.



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

July 16, 2024 **(HARPREET KAUR JEEWAN)**
nitin **JUDGE**

Whether Speaking	Yes
Whether reportable	No