



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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CRM-M-25892-2024
Date of decision: May 27th, 2024

Gursewak Singh @ Gosha
.....Petitioner

Versus

State of Punjab
.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. S.S. Rana and Mr. Arvind Kr. Sharma, Advocates
for the petitioner.

Mr. Amit Rana, Senior Deputy Advocate General, Punjab.

MANJARI NEHRU KAUL, J. (ORAL)

Petitioner is seeking the concession of bail under Section 439 of the Code of Criminal Procedure, 1973 in case FIR No.102 dated 02.11.2023 under Section 377 of the IPC and Sections 67-A and 67-B of Information Technology Act, along with Section 6 of the POCSO Act registered at Police Station Chamkaur Sahib, District Rupnagar.

2. Learned counsel for the petitioner submits that it was due to some misguided suspicion the petitioner was nominated as an accused in the present case for allegedly circulating some obscene pictures of the victim. However, while stepping into the witness box as PW-4, the victim did not support the case of the prosecution, which is evident from a perusal of his deposition, which has been annexed as Annexure P-2. Learned counsel has further submitted that even the mother of the victim had not supported the case of the prosecution during trial. Learned counsel has also drawn the attention of this Court to the MLR, which has been annexed as Annexure P-6 and has urged

that there is no medical corroboration to the version put forth in the FIR, which leaves no manner of doubt about the false implication of the petitioner. It has been submitted that the petitioner has now been in custody since 03.11.2023 and all the material witnesses out of the 16 cited by the prosecution have been examined. Hence, his further incarceration would serve no useful purpose as the trial would still take considerable time to conclude.

3. *Per contra*, learned State counsel while opposing the prayer and submissions made by the counsel opposite, on instructions from S.I. Surjit S. Mahal, has not disputed that the victim as well as his mother had not supported the case of the prosecution during trial. However, the learned State counsel has reiterated the allegations levelled in the FIR, which stands reproduced hereinunder:-

“Copy of Statement "statement of Simranjeet Singh s/o Mohan Singh, r/o Ward no. 9, near telephone exchange, Chamkaur Sahib, District Rupnagar, aged about 22 years, Mobile No. 82648-60108. I am a resident of above said address and I am pursuing the course of B.A. from Bela College, Chamkaur Sahib. I have a cousin brother (chacha's son) namely Khushpreet Singh @ Babloo, S/o Surinder Singh who lives in front of our house and whose date of birth is 12.12.2005. My bother Khushpreet Singh is mentally unstable. His treatment is going on in PGI Hospital. On 30.10.2023, I received a phone call from my friend Rajan S/o Hardeep Singh, r/o Chamkaur Sahib and he told me that my cousin brother's Khushpreet Singh @ Babloo S/o Surinder Singh, video has went viral on Whatsapp and when I requested him to sent the video to me. He complied and send me the video through Whatsapp, in the video alongwith my brother Khushpreet Singh, there were two other boys who were

doing objectionable acts. On being asked me about the incident, Khushpreet Singh told me that two days ago during night time, two boys namely Gursewak Singh @ Gosha and Jashanpreet Singh @ Jasu took him to their motor near Bhurere Chowk and committed wrong act with him. Due to mental condition of his cousin Khushpreet Singh @ Babloo could not differentiate between good and bad act.”

4. He, on further instructions, has also not disputed the status of the trial and has submitted that the next date fixed before the trial Court is 28.05.2024 when some more prosecution witnesses out of the six remaining are likely to be examined.
5. I have heard learned counsel for the parties and perused the material placed on record.
6. In the facts and circumstances as enumerated hereinabove, since the most material witness in the present case i.e. the victim already stands examined, further incarceration of the petitioner would serve no useful purpose. Accordingly, the instant petition is allowed. The petitioner be admitted to bail to the satisfaction of the trial Court/Duty Magistrate concerned.
7. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.
8. Needless to say, in case the petitioner misuses the concession of bail granted to him, the State would be at liberty to seek cancellation of the same.

May 27th, 2024
Puneet

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No