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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-26168-2024 (O&M)
Date of decision: 22.05.2024

Arun Chumber

... Petitioner

Vs.

State of Punjab

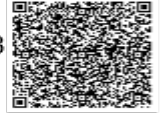
... Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Naresh Kumar Jandoli, Advocate
for the petitioner.

HARPREET SINGH BRAR, J. (ORAL)

1. This petition has been filed under Section 438 Cr.P.C. seeking anticipatory bail in case bearing FIR No.108 dated 21.06.2022 under Section 376-D of the Indian Penal Code, 1860 (for short 'IPC') and Section 6 of The Protection of Children from Sexual Offences (Amendment) Act, 2019 (for short 'POCSO Act'), registered at Police Station City Phagwara, District Kapurthala (Annexure P-1) [*challan/police report dated 11.09.2022 (Annexure P-2) has been presented under Sections 376, 201 of IPC and Sections 3/4 of POCSO Act*], as the petitioner has been summoned under Section 319 Cr.P.C. vide order dated 05.01.2023 (Annexure P-3)



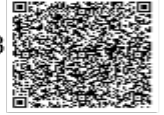
passed by learned Judge, Special Court, Kapurthala.

2. Learned counsel for the petitioner, *inter alia*, contends that the petitioner is a student and is 22 years of age and he has been falsely implicated in the present case. He was not present at the time of the occurrence. Learned counsel for the petitioner further contends that the Special Investigating Team (SIT) had found the petitioner innocent and he was kept in column No.2 and subsequently, he has been summoned with the aid of Section 319 Cr.P.C.

3. Notice of motion.

4. On asking of the Court, Mr. Subhash Godara, Addl. A.G., Punjab accepts notice on behalf of the respondent-State and submits that after registration of FIR (*supra*), a Special Investigating Team (SIT) was constituted and the petitioner was declared innocent and challan was presented only against co-accused, namely, Paramjit Singh @ Happy. On the basis of investigation, final report under Section 173 Cr.P.C. was prepared and same was presented against co-accused, Paramjit Singh @ Happy, and the petitioner with other co-accused were kept in Column No.2. The charges were framed against co-accused Paramjit Singh @ Happy on 29.10.2022. However, learned State counsel could not controvert the fact that the petitioner has been summoned with the aid of Section 319 Cr.P.C.

4. Having heard learned counsel for the parties and after perusing the record of the case with their able assistance, with the consent of the



parties, the matter is taken up for final disposal today itself.

5. The petitioner has been summoned with the aid of Section 319 Cr.P.C. Initially the SIT, which was constituted, had found the petitioner innocent. The present is not a case, where the custodial interrogation of the petitioner is required.

6. In view of the above and without commenting anything on merits of the case, present petition is allowed. The petitioner is directed to surrender/join the trial before learned trial Court within a period of two weeks from today and on his doing so, he shall be admitted to bail on his furnishing bail/surety bonds to the satisfaction of learned trial Court, concerned.

7. It is made clear that that in case the petitioner does not surrender/join the trial before learned trial Court within a period of two weeks from today as directed, present petition shall be deemed to have been dismissed.

8. All the pending miscellaneous application(s), if any, shall stand disposed of.

[HARPREET SINGH BRAR]
JUDGE

22.05.2024
vishnu

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No