



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-27407-2024 (O&M)
Reserved on: 12th September 2024
Date of decision: 22nd November 2024

MOHAMMAD AKRAMPetitioner
versus

STATE OF PUNJABRespondent

CORAM:- HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Present:- Mr. Karan Bhardwaj, Advocate
for the petitioner.

Ms. Sakshi Bakshi, AAG, Punjab.

HARPREET KAUR JEEWAN, J.

1. The present petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 (*hereinafter referred to as "Cr.P.C."*) seeking grant of regular bail to the petitioner in case FIR No.39 dated 08.04.2023, under Sections 376-A,B(2)(f,i,j&k) IPC, 1860 and Section 6 of the Protection of Children from Sexual Offences Act, 2012, registered at Police Station City-2, Malerkotla (Annexure P-1).
2. The first bail application of the petitioner was dismissed vide order dated 24.01.2024 (Annexure P-10) by recording the following observations: –

“xxxxxxx

6. *As per the paper book, the final report under Section 173 Cr.P.C. (Annexure P-7) has been presented before the trial Court However, as informed by the State counsel, only one PW has been examined on 04.11.2023 and no material witness has been examined. There are serious allegations against the petitioner about sexual abuse of a 07 year old girl child. As per the medical examination of the victim*



(Annexure P-6), the brief history of the case was given to the doctor that the parents of the victim are living separately and the victim complained about pain in genital area when came back to her mother. After examination of the injuries of the victim, the doctor had found redness around the urethra and after examination of the anus, gynaecological opinion was sought. The statement of the victim is yet to be recorded during the trial. The statement of the victim under Section 164 .Cr.P.C. has been reproduced by the petitioner in Para No.10 of the petition, which reads as under:-

"That my father is very bad. He takes me to "AARA" and does not get me anything to eat. I was sleeping, I do not remember anything that my father has done anything or not but my genitives are paining. Mumma gave call to papa and asked him that why I am in paint. Papa said fire has erupted so what. My uncle and grandmother took me to hospital. I went to hospital earlier. Mumma checked the house that skin was ton and there was blood then doctor checked and get me in hospital. Now I stay with mumma. Papa gives beatings to mumma therefore mumma left the house. Mumma let me with papa in anger. I have two sisters and they also stay with me, Aisha age 7 years, 21,04.2023."

7. *No inference regarding the innocence of the petitioner can be drawn from the said statement.*

8. *Keeping in view the gravity of the allegations levelled against the petitioner, the tender age of the victim and the fact that the minor victim is yet to be examined by the trial Court, at this stage, no ground is made out to release the petitioner on bail. Consequently, the present bail application stands dismissed."*

3. Learned counsel for the petitioner contends that after the dismissal of the first bail application, the statement of mother of the prosecutrix has been recorded as PW-2 (Annexure P-11). A video clip was played during her cross-examination, wherein, she is seeking forgiveness. It is contended that the



petitioner is facing trial wrongly being an accused of raping his own 07 year old daughter. It is further contended that the wife of the petitioner was in an extra-marital relationship with a man named Imran. The petitioner found intimate WhatsApp chat between his wife and the aforesaid Imran. The petitioner confronted his wife about the said relationship and she apologized admitting the said relationship. Thereafter, a meeting was held with the parents of the wife of the petitioner and she left the matrimonial home on 22.11.2022.

3.1 It is further contended on behalf of the petitioner that after six months of leaving the house, the wife of the petitioner came to the petitioner's house on 05.04.2023 and dropped her two elder daughters stating that henceforth, he will raise them. After two days, i.e. on 07.04.2023, she again came back to the house of the petitioner and took her elder daughter (prosecutrix) back and after that, a false case was got registered against the petitioner. It is further contended that CCTV footage of the house of the petitioner reflects that both the daughters were playing together at 9:28 AM on 07.04.2023, which falsifies the allegation that the petitioner-father has violated them at night. It is further contended that as per the medical examination, there was no injury on the person of the minor child.

3.2 Learned counsel for the petitioner further submits that the statement of the victim has also been recorded on 22.05.2024 and copy of the said statement has been submitted in the Court, which is taken on record.



4. On the other hand, the learned State counsel has opposed the present petition on the ground of gravity of allegations levelled against the petitioner.

4.1 Learned State counsel has filed custody certificate dated 11.09.2024, reflecting the actual custody period of the petitioner as 01 year 04 months and 18 days, which is taken on record.

5. I have heard the learned counsel for the parties and perused the paper book.

6. The age of the prosecutrix was 07 years at the time of alleged occurrence. The prosecutrix has given the narration of the incident in her statement recorded under Section 164 Cr.P.C., which reflects serious allegations against the petitioner about violating the girl child, who was 07 years old. The offence is further aggravated with the fact that the petitioner is the natural father of the child victim. The statement of the child victim has also been recorded during the trial by the learned Additional Sessions Judge, Sangrur on 22.05.2024. At that point of time, the child victim was 08 years old. The victim has narrated the events reflecting the allegations against the petitioner about violating his own girl child.

7. So far as the cross-examination of the wife of the petitioner, who appeared as PW-2 (Annexure P-11), which reflects a matrimonial dispute *inter se* the petitioner and his wife, is concerned, at this stage, no conclusion can be drawn about innocence of the petitioner. The appreciation of the testimony of the child witness and her mother is a matter of trial.

8. Considering the age of the victim and the fact that the victim has



supported the occurrence in her ocular statement recorded by the trial Court, no ground is made out to release the petitioner on bail pending trial.

- 9. Consequently, the present petition stands dismissed.
- 10. Pending miscellaneous applications, if any, shall stand disposed of.

(HARPREET KAUR JEEWAN)
JUDGE

22nd November 2024
simran

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>