



IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

212

CRM-M-30427-2024

Date of decision: 04.07.2024

Dharamvir

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

PRESENT: Mr. Vinod Kumar, Advocate for
Mr. Rajesh Lamba, Advocate for the petitioner.

Mr. Surinder Kumar Dagar, DAG, Haryana.

NIDHI GUPTA, J.(ORAL)

1. Prayer in this 1st petition filed under Section 439 Cr.P.C., is for grant of regular bail to the petitioner in case FIR No. 279 dated 04.06.2023 registered under Section 6 of the Protection of Children from Sexual Offences Act, 2012 (for short-‘the POCSO Act’); Sections 449, 506 and 323 IPC; and Section 75 of the Juvenile Justice (Care and Protection of Children) Act, 2015 (Section 10 of the POCSO Act was deleted later on) at Police Station Saran, District Faridabad.

2. The aforesaid FIR was registered on the basis of a complaint/application moved by the mother of the victim, which is reproduced as under:-

“To Incharge Police Station Saran Faridabad. It is prayed that I Anita wife of Ashok, am a resident of Karsada PS District Palwal presently tenant H. No. 1120 Sunil Nagar’s house Nangla Enclave Part 2 near Sarvottam School Faridabad. I and my husband work in Godown of Kabad. Everyday we go



for work at 8:30 AM. All 3 of our children stay along. On 03/06/2023 when I and my husband returned at 6:00 pm after work then my elder son Hitesh told me that on 03.06.2023 noon Dharamvir who resides on rent near our room had come to our room and sent my son Hitesh to shop for bringing cold drink. When my son Hitesh brought cold drink then he saw Dharamvir had taken off pajami of my daughter xxxx in our room and also taken off his pant and he had put my daughter xxxx on cot and he was lying on her. My son Hitesh asked as to what are you doing then Dharamvir slapped my son Hitesh and told him that if you will tell about this to anyone then I will beat you. My daughter xxxx is aged approximate 5 years. Legal action be taken against Dharamvir.....”

3. Learned counsel for the petitioner, *inter alia*, submits that petitioner has been falsely implicated in the present case as even according to the FIR there is no mark of any external injury on the person of the victim. In this regard, learned counsel for the petitioner refers to the MLR (Annexure P-2) of the victim, wherein it is recorded that ‘no mark of external injury seen’. The petitioner has been custody since 10.06.2023 i.e. almost for a period of 01 year. Thus, it is prayed that the petitioner may be released on regular bail.

4. No other argument is raised on behalf of the petitioner.

5. *Per Contra*, learned counsel for the State vehemently opposes the prayer for grant of regular bail to the petitioner and submits that at the time of alleged occurrence the victim was merely 05 years of age. In her statement recorded under Section 164 Cr.P.C., the victim has fully supported that case of the prosecution. She unambiguously/categorically stated that the petitioner had committed ‘bad act’ upon her. It is contented there is nothing on record to suggest that as to why the petitioner would be falsely implicated in the present case. On instructions from ASI Suresh, learned counsel for the State further informs that the victim is yet



to be examined. It is submitted that in case, the petitioner is released on bail there is every apprehension that he may try to threaten or influence the minor child/victim. Accordingly, it is prayed that the instant petition may be dismissed.

6. Learned counsel for the State has filed custody certificate dated 04.07.2024, which is taken on record, as per which the petitioner has been in custody as an undertrial for a period of 01 year and 25 days.

7. I have heard learned counsel for the parties.

8. Without commenting on the merits of the case, however, keeping in view the totality of the facts and circumstances of the present case; and more particularly, the gravity of the offence as well as the age of minor girl; as also the fact that the material witnesses are yet to be examined by the learned trial Court, I find that no ground is made out at this stage to grant regular bail to the petitioner. Accordingly, the present petition is **dismissed**.

9. However, nothing stated here-in-above shall be construed to be an expression of opinion on the merits of the case.

04.07.2024
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(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned Yes/No

Whether Reportable Yes/No