

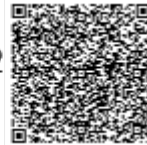
**CRM-M-30670 of 2024****1****IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****214****CRM-M-30670 of 2024****DATE OF DECISION :- 02.07.2024****Parveen Gautam****...Petitioner****Versus****State of Haryana****...Respondent****CORAM: HON'BLE MR. JUSTICE SUMEET GOEL****Present:-** Mrs. Kiran Bala Jain, Advocate for the petitioner.

Ms. Priyanka Sadar, AAG, Haryana.

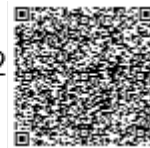
*********SUMEET GOEL, J. (Oral)**

1. Present petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case bearing FIR No.62 dated 17.08.2023, registered for the offences punishable under Sections 376(2) n, 506 of IPC and Section 4/6 of the Protection of Children from Sexual Offences Act, 2012 and Section 67-A of Information and Technology Act registered with Police Station Women Ambala, District Ambala.
2. The case set up in the FIR in question (as set out in the present petition by the petitioner) is as follows:-

“As per letter no. 44667/G/A.C.-3 dated 03.08.2023 regarding Zero FIE No.111 dated 27.07.2023 under section 376 IPC and 4 POCSO Act and 67-A IT Act, Police Station Lalru, SAS Nagar Mohali and Sr.No.16693 dated 16.08.2023 through S.P.Ambala City received, which is ás under: Statement of Sulekha Sarkar wife of Uttam Sarkar resident of village Jharmari, Police Station Lalru, District SAS Nagar aged about 42 years, Mobile no. 8950740426 stated that I am resident of above mentioned address and am house wife. I was married about 22 years before with Uttam Sarkar son of Hari Kishan resident of Malda Town,



Mission Ghat, PS Malwa, Thinglish Bazar, District Malda (West Bangal). I have two daughters elder daughter Diya Sarkar aged about 20 years and younger daughter Varsha Sarkar aged about 17 years. My younger daughter Varsha Sarkar for the last few days has been under tension and was mentally disturb, So I asked by daughter Varsha Sarkar about this. But she did not tell anything to me. On 21.07.2023 my elder daughter Diya Sarkar received a video on her mobile no.79734-44762 regarding physical relationship from mobile no. 99978-95404 in which my younger daughter Varsha was shown in nude position, having physical relation with some boy but the face of the boys was not visible. When I show this video to my younger daughter Varsha and strictly asked her what you have done, she while wiping told me that I know the boy namely Parveen Gautam son of Pardeep Gautam resident of Gali No.2 near Bijali Ghar Khurja, District Bulandshehar (UP) for the last four years. Parveen Gautam told me that his father is in UP police and we have met each other through face book. During this period we have given our mobile number to each other and we have been talking through Whatsapp then on 22.02.2022 he called me to meet him at Ambala Cantt District Ambala, Haryana in a restaurant where we has a talk face to face. Again he called me to meet him in same restaurant on 06.09.2022 where we talked and had a tea. Parveen Gautam mentioned above called me in Heaven Hotel Sadar Bazar, Ambala Cantt, District Ambala on 01.11.2022 where I had gone. Again on 06.02.2023 Parveen Gautam called to me to meet him in Heaven Hotel mentioned above where Parveen Gautam forcibly made physical relation with me even on my refusal but he did not pay any heed to it and made a nude video. Parveen Gautam threatened me that if I disclosed about this to anybody he would viral my video on social media then lastly on 28.03.2023 Parveen Gautam again called me in the same Hotel and stated if I don't come he would viral my video, so on account of that fear I went there and Parveen Gautam again made physical relation with me and made my obscene video. Parveen Gautam again called me for making physical relation but I refused. On account of which he sent



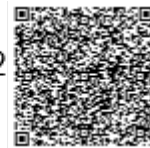
obscene video to my elder sister Diya Sarkar on her mobile through whatsapp. On 21.07.2023 Parveen Gautam threatened my elder daughter Diya Sarkar that today I have sent this video only to you and if you tell the same to the police then I will viral this video on social media. I did not disclose this to anybody considering me and my daughter reputation but I am afraid of that again Parveen Gautam may not viral this video on social media, so today having courage I along with my brother Sant Kumar and my daughter Varsha have come to the police station for information. Legal action be taken against Parveen Gautam. I have given my statement read over and admitted to be correct. Sd/- Sulekua. written by Sanat Kumar attested Police Station Lalru dated 27.07.2023.”

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 19.08.2023. Learned counsel has further argued that the petitioner has been falsely implicated into the FIR in question. Learned counsel for the petitioner has further argued that the prime prosecution witnesses namely the victim, sister of the victim and mother of the victim (when examined as PW1 to PW3 respectively) have turned hostile and thus the trial will not culminate into conviction. In this view of the matter, learned counsel has prayed for grant of regular bail.

4. Learned State counsel has opposed the present petition arguing that the allegations raised are serious in nature and thus the petitioner does not deserve the concession of the regular bail. Learned State counsel seeks to place on record custody certificate dated 01.07.2024 in Court, which is taken on record.

5. I have heard counsel for the parties and have gone through the available records of the case.

6. The petitioner is in custody since 19.08.2023 whereinafter investigation was carried out and challan stands presented on 18.10.2023. Total

**CRM-M-30670 of 2024** **4**

25 prosecution witnesses have been cited and culmination of the trial will, but of course, take its own time. The rival contention of learned counsel for the parties; as to whether the petitioner has been falsely implicated into the FIR in question as also the effect of the prime prosecution witnesses namely victim/sister of the victim/mother of the victim (examined as PW1 to PW3 respectively) have turned hostile; shall be gone into during the course of trial. This Court does not deem it appropriate to delve deep into these rival contentions, at this stage, lest it may prejudice the trial. Nothing tangible has been brought forward to indicate the likelihood of the petitioner absconding from the process of justice or interfering with the prosecution evidence. As per custody certificate dated 01.07.2024 filed by learned State counsel, the petitioner has already suffered incarceration for a period of more than 10 months & is not shown to be involved in any other case.

Suffice to say, further detention of the petitioner as an undertrial is not warranted in the facts and circumstances of the case.

7. In view of above, the present petition is allowed. Petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the Ld. concerned CJM/Duty Magistrate. However, in addition to conditions that may be imposed by the concerned CJM/Duty Magistrate, the petitioner shall remain bound by the following conditions:-

- (i) The petitioner shall not mis-use the liberty granted.
- (ii) The petitioner shall not tamper with any evidence, oral or documentary, during the trial.
- (iii) The petitioner shall not absent himself on any date before the trial.
- (iv) The petitioner shall not commit any offence while on bail.
- (v) The petitioner shall deposit his passport, if any, with the trial Court.

