



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
211

CRM-M-44698-2024(O&M)

Date of Decision: 13.12.2024

Mohit

....Petitioner

Versus

State of Haryana

.... Respondent

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present: - Mr. Rishi Lal, Advocate for the petitioner.

Mr. Aditya Pal Singla, A.A.G., Haryana.

NIDHI GUPTA, J. (ORAL)

Prayer in the present petition under Section 439 Code of Criminal Procedure is for grant of regular bail to the petitioner in FIR No.30, dated 18.02.2023 under Sections 10, 18 of POCSO Act and Sections 120-B, 342 of IPC (Section 6 of POCSO Act and Section 376-D, 506 of IPC added later on) registered at Police Station Sector 20, District Panchkula, Haryana, (Annexure P-1).

Learned counsel for the petitioner *inter alia* submits that the present FIR (Annexure P-1) was registered on the basis of the statement made by the mother of the victim, the relevant extract of which reads as under:-

"..... My daughter along with her brother Vishal after came out of the house reached near the house No.450 Sec. 10 Panchkula, then from inside a voice came 'come here', then my daughter asked that 'what happened brother'.



Then Mohit held her hand and pulled her inside and pushed my son down and closed the door. Except Mohit two persons also were there inside the room, they were Sagar and Sanjeet. They all three tied the hands of my daughter, in the meanwhile my son Vishal raised noise due to which people from nearby gathered, he also bring me. On hearing the noise they released my daughter. My daughter told me that after closing the door they all three tied my hands and drink me water and Mohit tried to kiss me by holding me tight but due to huge noise he pulled me and released my hands and they all three ran away from the backside door. They have molested my daughter. If the people were not raised noise anything could have happened with her. legal action be taken against all three Mohit, Sagar, Sanjeet.”

Learned counsel for the petitioner submits that the above said allegations are false and fabricated. It is submitted that this is borne out from the fact that in pursuance of FIR No. 30 dated 18.02.2023, medical examination of the victim was conducted on 18.02.2023 itself and as per the MLR, no medical evidence was found to incriminate the petitioner. It is stated that thereafter, on the request made by the complainant, another MLR was conducted upon the victim on 19.02.2023. Even as per the second MLR, there is no medical evidence found to incriminate the petitioner. It is further submitted that upon ossification test of the victim, offences under the POCSO Act were removed by the learned trial Court.

Learned counsel for the petitioner further submits that the complainant and the victim have been examined. It is further submitted



that the petitioner has been in custody since 19.02.2023 as undertrial. No useful purpose would be served by further detention of the petitioner in custody. Thus, it is prayed that the present petition may be allowed, and the petitioner be released on regular bail.

Learned counsel for the State opposes the prayer made on behalf of the petitioner and submits that the victim in the present case was only 15 years of age at the time of commission of offence; whereas the petitioner was 26 years of age. It is submitted that the victim in her statement under Section 164 Cr.P.C. has supported the prosecution case. Even the complainant as PW1 and the victim as PW 4 have reiterated the allegations made in the FIR.

Learned counsel for the State, on instructions from ASI Jagpal Singh, informs that out of total 28 prosecution witnesses, 2 witnesses i.e. the complainant and the victim, have been examined so far.

Learned counsel for the State files custody certificate dated 12.12.2024, which is taken on record, as per which the petitioner has been in custody as an undertrial for a period of 01 year, 09 months and 24 days. A copy thereof has been supplied to learned counsel for the petitioner.

Having heard learned counsel for the parties, but without commenting on merits of the case, however, keeping in view the totality of the facts and circumstances of the case including the fact that: a) the custody period of 01 year, 09 months and 24 days undergone by the petitioner as an undertrial; b) material witnesses i.e. victim and the



complainant stand examined; c) out of total 28 witnesses, only 2 witnesses been examined so far and; d) therefore, the conclusion of trial will take considerable time and no useful purpose would be served by further detention of the petitioner. Thus, the present petition is allowed.

The petitioner-Mohit S/o Satbir, is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate, concerned.

However, it is made clear that nothing stated above shall be construed as an expression of opinion on the merits of the case.

Pending application, if any, stands disposed of.

13.12.2024
Divyanshi

(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No