



**207 IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH**

**CRM-M-44388-2024 (O&M)**

**Date of decision: 12.09.2024**

**NISHAN SINGH @ NANNY**

**...PETITIONER**

V/S

STATE OF PUNJAB

## ...RESPONDENT

**CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**

Present: Mr. Saajan Singla, Advocate (Legal Aid Counsel)  
for the petitioner.

Mr. Sandeep Kumar, DAG Punjab.

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**HARPREET SINGH BRAR J. (ORAL)**

1. This is the first petition filed under Section 439 of Cr.P.C. (Corresponding Section 483 of Bharatiya Nagarik Suraksha Sanhita) seeking grant of regular bail to the petitioner in case bearing FIR No. 11 dated 09.02.2024 registered under Section 506 of Indian Penal Code (Section 354-D of IPC added later on) and Section 10 of Protection of Children from Sexual Offences Act, 2012 at Police Station Sanaur, District Patiala.

2. The FIR(supra) was registered on the statement of complainant on the allegations that she is a housewife and has a son namely Sahil Sood and a daughter namely xxxxxx aged about 12 years (Date of birth 26-07-2011). Her son Sahil Sood studies in Tenth class and daughter xxxxxx studies in Seventh class in Aurovindo International School Patiala. Both children are being taken from home to school and from school to home by Nishan Singh (petitioner herein) in his auto bearing registration No. PB-11BF-3808. For a few days, her son was not going to school due to the preparation of Tenth class's exams and the petitioner used to take her daughter xxxxxx from home first and to leave last at home in his auto. On 08.02.2024, she received a phone call of Madam Manjusa Goyal from my daughter xxxxxx's school, who told that your



daughter xxxxxx was crying in the class, who told her that her auto driver Nishan Singh (petitioner) has done wrong deeds with her on the way and when the complainant went to school then her daughter xxxxxx told her that on 06-02-2024 when Nishan Singh was taking her from home to school in his auto, when she was alone in the auto, then at around 08:10 AM when they reached near Addh Wala Peer, Sanaur, then in his auto itself, Nishan Singh called her near to his seat and sat me on the seat behind him and he held my hand and kept on his private part and thereafter he touched my upper and lower private parts so I got scared and even after that Nishan Singh did the same deeds while returning from school and again on 07-02-2024 while going to school and threatened that she should not tell anyone about this and this matter should remain between both of them. Thereafter, in the school itself, in the presence of Principal Madam Neerja Sethi and Admin Sir Jitender, the Principal Madam called the driver Nishan Singh and his father Bhag Singh in the principal's office, where the driver Nishan Singh confessed his mistake in front of everyone. On the basis of aforesaid allegations, FIR(supra) has been registered.

3. Learned counsel for the petitioner *inter alia* contends that petitioner has been falsely implicated in the present case on the basis of misguided suspicion and the case set up by the prosecution is highly improbable as the same cannot happen in the manner, as provided in the FIR(supra), which states that petitioner has performed the said act on the busy city roads, while the petitioner was also driving the Auto rickshaw and there is a complete variation in the statement made by prosecutrix under Section 164 Cr.P.C. from the initial version. Moreover, the material witnesses including the prosecutrix and complainant have already been examined by the trial Court and



petitioner is not involved in any other case and petitioner is a poor person and the only bread winner for his family and he is behind the bars since 09.02.2024.

4. Per contra, the learned State counsel opposes the prayer made by learned counsel for the petitioner on the ground that there are serious and specific allegations levelled against the petitioner and he has admitted before the School Principal that he has committed the mistake. As such, the petitioner is not entitled to any relief by this Court.

5. Having heard the learned counsel for the parties and after perusing the record, it transpires that petitioner is behind the bars since 09.02.2024 and trial of the case is likely to take long time to conclude as out of total 19 prosecution witnesses, only 4 have been examined so far. Thus, the trial has not even reached halfway mark. Petitioner is not involved in any other case. Culpability, if any, would be determined at the time of the trial.

A two Judge Bench of Hon'ble Supreme Court in 'Satender Kumar Antil v. CBI' (2022) 10 SCC 51, with respect to prevailing conditions of undertrial prisoner in India has observed:

*"6. Jails in India are flooded with undertrial prisoners. The statistics placed before us would indicate that more than 2/3rd of the inmates of the prisons constitute undertrial prisoners. Of this category of prisoners, majority may not even be required to be arrested despite registration of a cognizable offence, being charged with offences punishable for seven years or less. They are not only poor and illiterate but also would include women. Thus, there is a culture of offence being inherited by many of them. As observed by this Court, it certainly exhibits the mindset, a vestige of colonial India, on the part of the investigating agency, notwithstanding the fact arrest is a draconian measure resulting in curtailment of liberty, and thus to be used sparingly. In a demo cracy, there can never be an impression*

*that it is a police State as both are conceptually opposite to each other.”*

6. In view of the above, without commenting upon the merits of the case, the petitioner-Nishan Singh @ Nanny is ordered to be released on regular bail, subject to his furnishing bail bonds/surety bonds to the satisfaction of CJM/Duty Magistrate concerned.

7. Nothing observed hereinabove shall be construed as expression of opinion of this Court on merits of the case and the trial Court shall proceed without being prejudiced by observations of this Court.

**September 12, 2024**  
*Ajay Goswami*

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|------|---------------------------|--------|
| (i)  | Whether speaking/reasoned | Yes/No |
| (ii) | Whether reportable        | Yes/No |

**(HARPREET SINGH BRAR)**  
**JUDGE**