



CRM-M-44992-2024 -1-

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

205 CRM-M-44992-2024
Date of decision:-16.09.2024

Rakesh ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Shikhar Goel, Advocate,
Mr. Aman Chaudhary, Advocate &
Mr. Shoeb Khan, Advocate for the petitioner.

Mr. Sharad Aggarwal, DAG, Haryana.

SUVIR SEHGAL, J.

1. This is the 2nd petition filed by the petitioner under Section 439 Cr.P.C./483 of Bharatiya Nagarik Suraksha Sanhita for grant of regular bail in:-

FIR No.	Dated	Police Station	Sections
609	08.10.2021	Mujesar, District Faridabad	506 of IPC, 1860 and Section 06 of the Protection of Children from Sexual Offences Act, 2012, (for short "POCSO Act")

2. Version of the prosecution is that FIR, Annexure P-1, has been registered on the complaint of J....., name withheld (hereinafter referred to as "prosecutrix's mother/complainant") stating that on 22.07.2021, when she went to get herself vaccinated, she left her six years old daughter (hereinafter referred to as "the prosecutrix") with her friend, Dolly. A few days later,

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when the prosecutrix went to her mother's house at Karol Bagh, she confided in her grand-mother that Rakesh Chadha (present petitioner) tried to coerce her into oral sex. He threatened that in case, she revealed the incident to anyone, he will kill her family members. Upon coming to know of the incident, complainant went to R.M.L. Hospital, for medical examination of the prosecutrix. Upon coming back to Faridabad, when she confronted her friend, Dolly and lodged a complaint for taking action against Rakesh.

3. Counsel for the petitioner urges that some of the prime witnesses such as the prosecutrix's grand-mother and the doctor from R.M.L. hospital, have not been cited by the prosecution. He submits that the charge under Section 06 of the POCSO Act has been wrongly framed. It is also his argument that there is an unexplained delay of 16 days in lodging of the FIR and the alleged incident never took place as the petitioner lives in a two room accommodation with his family members. He claims that as all the vulnerable witnesses have been examined and the petitioner has undergone a custody of more than 2 ½ years, he deserves to be released on bail. By referring to the cross-examination of the prosecutrix's mother, he submits that she is in a matrimonial litigation and she is not reliable.

4. Per contra, learned State counsel has opposed the petition by submitting that the petitioner is accused of a serious offence. He has filed custody certificate dated 14.09.2024, which is taken on record. He submits that the first petition filed by the petitioner was withdrawn on 12.12.2022 and there is no change in the circumstances to enable the petitioner to approach the Court again. He submits that the charge was framed in

December, 2021 and most of the witnesses have been examined.



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5. I have heard counsel for the parties and considered their respective submissions.
6. On a specific query, counsel for the petitioner has stated that the petitioner is not related to the prosecutrix or her family. It is not the case of the petitioner that he has been embroiled in a criminal case due to a matrimonial dispute of the complainant. Petitioner is accused of taking advantage of a young child from a broken home and breaching the trust placed in his family. Testimony of the prosecutrix reveals that she has given explicit details of the sordid incident and her deposition is consistent with her statement under Section 164, Cr.P.C. Minor variance in the version of the complainant and her matrimonial dispute cannot cast any shadow on her character or dilute the gravity of offence allegedly committed by the petitioner.
7. This Court does not find any reason to exercise its discretionary power and grant concession of bail to the petitioner.
8. Petition is dismissed.
9. Nothing said hereinabove shall be construed to be an expression of opinion on the merits of the case.
10. However, noticing the length of detention, Trial Court is requested to expedite the trial and conclude it as expeditiously as possible.

16.09.2024
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(SUVIR SEHGAL)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No