



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

213

CRM-M No.50286 of 2022 (O&M)
Date of Decision: 21.05.2024

Pawan Kumar ... Petitioner

Versus

State of Punjab ... Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Ankush Sharma, Advocate,
for the petitioner.

Mr. Amandeep Singh Samra, AAG, Punjab,
for the respondent-State.

Mr. G.S. Dhaliwal, Advocate,
for the complainant.

MANISHA BATRA, J.(Oral)

1. The present petition has been filed under Section 439 of Cr.P.C. seeking regular bail in FIR mentioned below:-

FIR No.	Dated	Police Station	Sections
79	21.07.2022	Daba, District Police Commissionerate Ludhiana	354-C and 506 of IPC and 12 of Protection of Children from Sexual Offences Act, 2012 (For short "POCSO Act")

2. Brief facts of the case relevant for the purpose of disposal of the present petition are that the aforementioned FIR was registered on the basis of statement recorded by the complainant "P" (name withheld) that she was firstly married with one "S" (name withheld). The victim "G" (name withheld) who was her seventeen and half years old daughter was

2024:PHHC:072288



born out of loins of her first husband. She got divorced from her husband in the year 2011 and performed marriage with the petitioner. Two years after the marriage, the behaviour of the petitioner had changed and he was caught by the complainant while conversating with different females. She alleged that about two years back, the victim who at that time was 15 years' old had told her that the petitioner used to peep through the door of bathroom and see her. At that time, she did not believe her but gradually she started noticing his movements and found that he was keeping an evil eye upon her daughter. She alleged that her daughter had also informed her that the petitioner used to touch her private part and she herself also caught him while lifting her shirt while the victim was sleeping alone in the room. Quarrels started taking place between them. On 02.07.2022 he had extended beatings to her daughter and herself.

3. The complainant further alleged that she was even medically examined. She had bought a hidden camera and installed the same in her house and was shocked to see the petitioner while peeping through the hole of the door of the bathroom and masturbating while her daughter used to take bath. The camera also captured him while preparing a video of the daughter of the complainant while taking bath in the bathroom. Her daughter was in depression now and, therefore, she prayed for taking action against the culprit.

4. Initially, a case under Sections 354-C and 506 of IPC and Section 12 of POCSO Act was registered. Investigation proceedings were initiated. The statement of the victim was recorded under Section 164 of Cr.P.C. wherein she reiterated the allegations as levelled in the FIR. The

2024:PHHC:072288



complainant also handed over the hidden camera along with chip installed in the same as well as the pen drive containing video of the petitioner. The petitioner was arrested on 21.07.2022. His mobile phone was also taken into custody and had been sent to FSL. The report is awaited. Offences under Sections 323 and 354 of IPC and Section 10 of POCSO Act were added later on. After completion of necessary investigation and usual formalities, challan was presented in the Court and presently, the petitioner is facing trial for commission of offences punishable under the aforementioned sections. He had moved an application for grant of regular bail before learned trial Court which had been dismissed vide order dated 10.10.2022.

5. It is argued by learned counsel for the petitioner that he had been falsely implicated in this case and is in custody since 21.07.2022. Infact, the first husband of the complainant had given divorce to her as she was having relationship with one Dharmender Aggarwal. Even thereafter, the complainant was maintaining relations with the abovesaid Dharmender Aggarwal and due to reason, she had become inimical towards the petitioner. No offence as alleged had been committed by him. There are no chances of his intimidating the witnesses since the victim as well as the complainant stand examined. No useful purpose would be served by keeping him in custody any more. Therefore, it is argued that he deserves to be released on bail.

6. Status report has been filed by the respondent-State as per which, there were serious allegations as against the petitioner who had been sexually harassing the victim who was his step daughter and had also tried to outrage her modesty. He had been capturing videos of the victim while she

2024:PHHC:072288



used to take bath. His mobile has been sent to the FSL and the report from the same is awaited. Learned State counsel assisted by learned counsel for the complainant have argued that there are chances of petitioner's absconding if extended benefit of bail. Therefore, it is argued that the petition does not deserve to be allowed.

7. I have heard learned counsel for the parties at considerable length and have gone through the record.

8. As per the allegations, the petitioner sexually harassed the minor daughter who is her step daughter by touching her with sexual intent and also by capturing her videos while she used to take bath. He is in custody since 21.07.2022. The victim and the complainant have since been examined. The trial is likely to take time. His further detention in custody would not serve any useful purpose. Keeping in view the nature of the allegations as levelled against the petitioner, the quantum of sentence which the conviction may entail, the period of his incarceration and further the fact that there are no chances of his petitioner's intimidating the witnesses and there is no basis for the contention that he may abscond but without meaning to make any comment on the merits of the case, I am of the considered opinion that the petitioner deserves to be released on bail at this stage. Therefore, the petition is allowed and he is ordered to be admitted to bail subject to his furnishing personal as well as surety bonds to the satisfaction of learned trial Court and further subject to the condition that he will not try to keep any contact with the victim and the complainant and shall not visit their place of residence during the course of trial and if this condition is violated then the learned trial Court will be at liberty to cancel the

2024:PHHC:072288



concession of bail granted to the petitioner on moving application by the victim/complainant in this regard.

21.05.2024
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(MANISHA BATRA)
JUDGE

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