



that a boy named Abhishek took me to a room near Medanta Hospital on the pretext of taking me for a walk in June 2021 and there he forcibly did wrong things with me and also took my dirty photos. Then on 08.10.2021, Abhishek threatened to make the photo viral and took me with him to the same room near Medanta Hospital, then forcibly did wrong things with me and took dirty photos. Later, when my daughter stopped talking to Abhishek, Abhishek uploaded my daughter dirty photo on instagram and made it viral. Today my daughter told me about the above incident. It has been told that Abhishek has done a very wrong thing by doing wrong with my daughter and making her dirty photo viral. I request you to take strict legal action against Abhishek. I am giving this complaint in the presence of legal advisor Sushma Nagar. Sd/- Kiran, 07/06/23, 9899580391.”

It is submitted that on the date of alleged incident, the victim was about 15 years of age, whereas the petitioner was only about 20 years of age. It is contended that there is a delay of 1 year and 8 months in the registration of FIR. As per the FIR, the date of alleged incident is 08.10.2021, whereas FIR has been registered on 07.06.2023. It is further submitted that allegations made in the FIR are patently false and fabricated as is evident from the deposition of the victim as PW2. Reference is made to the cross-examination of the victim, wherein she has admitted that she had been talking to the petitioner willingly on mobile phone since the year 2021; that her family members were not aware that she used to talk to the petitioner; and that when she used to go to school when occasionally she met with the petitioner and talk to him. It is submitted that prosecutrix and the complainant already stand examined as



PW2 and PW1 respectively and have supported the prosecution case in their respective testimonies. There is no question of tampering the evidence at this stage.

Learned counsel for the petitioner further submits that the petitioner has been in custody since 08.06.2023 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 vehemently opposes prayer made on behalf of the petitioner and submits that the victim was only 15 years of age at the time of occurrence. The victim has supported the prosecution case in her statement under Section 164 Cr.P.C., as also in her testimony as PW2. The history of medical evidence recorded in the MLR also supports the prosecution case. It is further submitted that offence under Section 14 of the POCSO Act and Section 67-A of the IT Act stand deleted in the present FIR.

Learned counsel for the State, further informs that there are 18 witnesses in the present case, out of which only 7 witnesses including the victim and the complainant, have been examined so far.

Learned counsel for the State files custody certificate dated 25.09.2024, which is taken on record, as per which the petitioner has been in custody as an undertrial for a period of 1 year, 3 months and 18 days.

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: a) the custody period of 1 year, 3 months and 18 days undergone by the petitioner as an undertrial; b) no other case is pending against the petitioner as evident from the custody certificate placed on record; c) material witnesses i.e. the victim and the complainant already stand examined as PW2 and PW1 respectively; and d) out of total 18 witnesses, 7 witnesses have been examined so far and, 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-Abhishek Tyagi s/o Subhash Singh, 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.

26.09.2024
Divyanshi

(NIDHI GUPTA)
JUDGE

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