



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

228

CRM-M-48422-2024 (O&M)

Date of decision : 16.10.2024

AJAY KUMAR

... PETITIONER

VERSUS

STATE OF HARYANA

...RESPONDENT

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Fateh Saini, Advocate for the petitioner.

Mr. Pankaj Middha, Addl. AG Haryana.

ALKA SARIN, J. (ORAL)

1. This is the second petition filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the petitioner in FIR No.367 dated 13.06.2023 under Section 10 of the Protection of Children from Sexual Offences Act, 2012 (for short 'POCSO Act') registered at Police Station Shahabad, District Kurukshetra.

2. On 13.06.2023 the complainant i.e. grandfather of the victim filed a complaint alleging that he has two children, both of whom are married. On 13.06.2023 at about 6:00 pm his grand-daughter aged about 7 years along with her friend who is 5 years old, were playing in an empty place behind the baithak. He heard shrieks of both the victims. When he reached there he saw that the applicant herein was physically abusing both the children. The underpants of the victim who is 5 years old were pulled down and immediately on seeing the complainant the petitioner herein fled from the spot. On the basis of the said complaint, FIR No.367 dated 13.06.2023 under Section 10 of the POCSO Act was registered at Police

Station Shahabad, District Kurukshetra. The statements of both the victims were recorded under Section 164 CrPC and they have supported the case of the prosecution. The victims also stated that petitioner herein showed dirty photographs to them and also clicked their photographs. As per the status report, there were other incidents also which were reported by the victims. The petitioner was arrested on 15.06.2023 and both the victims were also medically examined.

3. Learned counsel for the petitioner would contend that the petitioner has falsely been implicated in the case and that he is a mentally unfit person who had undergone treatment prior to the incident. It is further the contention that false statements have been made by both the victims. In support of his argument he relied upon the medical documents Annexures P-5 and P-6.

4. Learned State counsel has filed the status report along with copies of statements of both the victims recorded under Section 164 CrPC. Custody certificate has been filed in Court today which is also taken on record. As per the custody certificate the petitioner has been in custody for a period of 01 year and 04 months. Learned State counsel on instructions from SI Usha Rani, Police Station Shahabad, District Kurukshetra has stated that out of 17 prosecution witnesses, 13 have been examined and the remaining official witnesses would also shortly be examined. Learned State counsel has further stated that all medical issues of the petitioner are being attended to in the jail hospital and now he is medically fit.

5. Heard.

6. In the present case the petitioner is alleged to have molested two minor children aged about 5 and 7 years old. Both minor children have

fully supported the case of the prosecution in their statements recorded under Section 164 CrPC as well as during their statements recorded before the Trial Court. The argument of the learned counsel for the petitioner that the petitioner is mentally unfit and was undergoing treatment prior to the incident cannot be accepted in view of the fact that the medical record itself reveals that the petitioner was habitual of consuming cannabis and is stated to be suffering from cannabis psychosis.

7. Keeping in view the nature of the allegations and the fact that both the minor children aged about 5 and 7 years old have fully supported the case of the prosecution, I do not find this to be a fit case for granting regular bail to the petitioner.

8. Accordingly, the present petition is dismissed. Pending applications, if any, also stand disposed off.

16.10.2024
Ankur

(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO