

266

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

CRM-M-51785-2023

Reserved on: 08th January, 2024

Date of decision: 31st January, 2024

KULDEEP

.....Petitioner

versus

STATE OF HARYANA

.....Respondent

CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Present: Mr. Rakesh Nehra, Sr. Advocate with
Ms. Himani Anand, Advocate and
Mr. Sauhard Singh, Advocate
for the petitioner.

Mr. Kirpal Singh Thakur, AAG, Haryana.

Mr. Rajnikant Upadhyay, Advocate
for the complainant.

Mr. Naveen Kumar, Advocate;
Mr. Viren Nehra, Advocate and
Mr. Sunil Yadav, Advocate
for Paralympic Committee of India.

HARPREET KAUR JEEWAN, J. (ORAL)

1. The instant petition has been filed by the petitioner under Section 439 of the Code of Criminal Procedure, 1973 seeking regular bail in case FIR No.251 dated 18.08.2023, under Section 354-A of IPC and Section 10 of Protection of Children from Sexual Offences Act, 2012, registered at Police Station Murthal, Sonapat, Haryana (Annexure P-1).

2. Learned Senior counsel for the petitioner *inter alia* contends that the petitioner has been falsely implicated in this case. The petitioner is presently an Archery Coach of Shri Mata Vaishno Devi Shrine Board, Katra, Jammu and he

used to give training to para and able Archery players. The petitioner is married

and having three children and his wife is also an Archery coach. The petitioner has trained several archery players at Shri Mata Vaishno Devi Shrine Board, Katra, Jammu, who have won medals and brought pride to the country.

2.1 The prosecutrix was also a trainee under the petitioner at Shri Mata Vaishno Devi Shrine Board, Katra, Jammu. There are presently more than 100 students getting training and several of them are female trainees but no one has ever made a complaint against the petitioner.

2.2 Learned Senior counsel for the petitioner further contends that as per the allegations, the alleged occurrence took place on the intervening night of 07/08.04.2023 at Sukhdev Hotel, Sonapat but the prosecutrix was not even present at the said hotel on the said night, which is clear from the records of the hotel, where no room was booked in the name of the prosecutrix. Neither the CCTV footage of the hotel supports the case of the prosecution nor the hotel records. In fact, on the night of the alleged incident, the petitioner had gone to Delhi Airport to see off his wife and daughter which is evident from the flight tickets (Annexure P-2).

2.3 The only trainees namely Shital and Shivani, who were staying in the Sukhdev Hotel, Sonapat on the intervening night of the alleged incident, have testified by way of an affidavit (Annexure P-3) that no such incident took place.

2.4 Due to some illness, the petitioner was admitted in the hospital and he was discharged on 21.06.2023, as per the medical documents (Annexure P-4) and during this period, the father of the prosecutrix was present in the hospital and he was attending the petitioner. It is highly improbable that a father, knowing about such an incident, would continue to attend the accused.

2.5 The prosecutrix is extremely revengeful in nature. She took away the Archery equipment from the place of training to her house and the WhatsApp conversation of the prosecutrix with her co-trainee (Annexure P-5) indicates about her revengeful attitude.

2.6 The petitioner visited the house of the prosecutrix on 25.06.2023 to collect the equipment which she had taken away without the permission of the petitioner and she called the Police helpline No.112 but later on, she made a statement that there was some misunderstanding, as such, the DDR of the said incident (Annexure P-6), was recorded in the Police Station. The Sports Authority of India had issued a show cause notice (Annexure P-8) to the father of the prosecutrix regarding the absence of the prosecutrix from the National Camp and regarding her unsatisfied performance and the prosecutrix was weeded out from the Archery team (Annexure P-9) upon which, the prosecutrix wrote a complaint against the petitioner to the Sports Ministry (Annexure P-10). The present FIR has been registered only on account of the fact that the prosecutrix was turned out of the Archery Team. The petitioner is in custody since 28.09.2023 and he is ready to face the trial.

3. The learned State counsel has opposed the bail application on account of gravity of allegations levelled against the petitioner.

3.1. Learned State counsel further contends that the victim has supported her version in her statement recorded under Section 164 Cr.P.C. on 19.08.2023 (Annexure R-1).

3.2 Referring to the reply dated 22.10.2023, filed by way of affidavit of Sh. Gorakh Pal, HPS, Assistant Commissioner of Police, Ganaur, Sonipat,

learned State counsel contends that during interrogation, the petitioner/accused has suffered a disclosure statement and admitted his guilt.

3.3 As per the Secondary School Examination Certificate and Birth Certificate procured during investigation, the prosecutrix was minor on the date of occurrence and her date of birth is found to be 27.07.2005.

3.4 Learned State counsel further contends that the victim had narrated the occurrence to her friend namely Saloni on the next day of occurrence i.e. on 07.04.2023 through WhatsApp chat and the record of said WhatsApp chat was produced by her in a pen drive. The printouts of the said chat are attached with the status report as Annexure R-2. As per the video recording contained in the pen drive recovered during investigation, the petitioner had visited the house of the victim to seek pardon.

3.5 The learned State counsel further contends that during investigation, the relevant record was obtained from Shree Radhika Guest House, Sonipat as per which, the victim had stayed in the said Guest House on 04.04.2023 and 05.04.2023 and the entry record of the said guest house also bears the signature of petitioner/accused Kuldeep and the copies of Aadhaar Card of the prosecutrix as well as the petitioner/accused Kuldeep were also furnished in the said guest house. During investigation, the relevant record was obtained from Fair Vacanze Hotel as per which, the petitioner/accused had stayed in the said hotel from 08.04.2023 to 10.04.2023 and the rooms of the said hotel were also booked by the petitioner/ accused Kuldeep and in this regard, the relevant entries are there in the hotel record. During the investigation, the call detail record/tower location of the Mobile No.8788300038 of the petitioner/accused Kuldeep and that of

the said call details, location of the petitioner/accused on 06.04.2023 at about 9:20 PM was in the area near Sukhdev Dhaba, Murthal and during night, at about 11:15 PM, the location of the petitioner/accused was Delhi Airport and again in the morning, on 07.04.2023 at about 6:47 AM, location of the petitioner/accused was at Sukhdev Dhaba, Murthal and in between, the mobile phone of the petitioner/accused was switched off. The petitioner/accused disclosed in his disclosure statement that from 11:30 PM till 6:47 AM, on that day, he kept his mobile phone switched off so that tower location of the petitioner could not be ascertained during this period.

4. While dictating the order, it was found necessary to seek clarification from the State as to whether the final report under Section 173 Cr.P.C. has been presented?

4.1. Learned State counsel has informed that the final report under Section 173 Cr.P.C. has been presented and charges have been framed but the statement of the prosecutrix is yet to be recorded. This fact is not disputed by the learned Senior counsel for the petitioner.

5. I have considered the contentions raised by the learned Senior counsel appearing on behalf of the petitioner as well as the contentions raised by the State counsel.

6. Keeping in view the gravity of allegations levelled against the petitioner that he had sexually abused the prosecutrix, who was minor at the time of the occurrence and that there was a fiduciary relationship of a “Coach and a Trainee” inter se the petitioner and the prosecutrix, at this stage, this Court does not feel that it is a fit case for releasing the petitioner on regular bail. The

be examined. There is an apprehension of tampering with the prosecution evidence. As such, the present application stands dismissed.

7. All the pending miscellaneous application(s), if any, shall also stand disposed of.

(HARPREET KAUR JEEWAN)
JUDGE

31st January, 2024
sim

<i>Whether speaking/reasoned</i>	:	<i>Yes/No</i>
<i>Whether reportable</i>	:	<i>Yes/No</i>