

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

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CRM-M-59329-2023 (O&M)
Date of decision: 02.02.2024

Alim ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Vaibhav Goel, Advocate
for the petitioner.

Mr. Neeraj Poswal, AAG, Haryana.

MANISHA BATRA, J. (Oral)

1. This petition has been filed by the petitioner under Section 439 Cr.P.C. seeking regular bail in case bearing FIR No. 240 dated 08.09.2023 registered under Sections 354, 354 A and 506 of IPC read with Section 10 of POCSO Act, 2020 which was later on converted into Section 8 of the POCSO Act, 2012, registered at Police Station Sanoli, District Panipat.
2. Brief facts of the case relevant for the purpose of disposal of this petition are that the aforementioned FIR was registered on the basis of a written complaint submitted by the complainant 'K' (*name withheld*) alleging therein that his daughter 'H' (*name withheld*) had gone to the house of Saleem for some work on 08.09.2023. The petitioner who is son of aforesaid Saleem was alone in the house and on finding opportunity, he locked her in room and started teasing her. The daughter of the complainant had started crying and then the petitioner extended threat to kill her. On the basis of complaint and

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after registration of FIR, investigation proceedings were initiated. The petitioner was arrested on the same day. After completion of investigation and usual formalities, *challan* under Section 173 Cr.P.C was presented against the petitioner and presently, he is facing trial for commission of offences punishable under Sections 354, 354-A and 506 IPC read with Section 8 of the POCSO Act. He had moved an application for grant of regular bail before the trial Court but the same was dismissed, vide order dated 10.11.2023.

3. The present petition has been filed by the petitioner on the ground and his counsel has argued that he has been falsely implicated in this case. The investigation has since been completed and *challan* has been presented in this case. He is in custody since 08.09.2023. No medico-legal examination of the victim was conducted. The petitioner has falsely been implicated in this case due to the fact that the relations between his family and the family of the victim were strained. The trial is likely to take some time. The allegations, on the basis of the record, do not make out any case for commission of offence under Section 8 of the POCSO Act or Sections 354 and 354-A of IPC. Hence, it is prayed that the present petition deserves to be allowed.

4. On the other hand, learned State counsel has resisted the pleas as taken by the petitioner in terms of status report filed today. He has argued that there are specific and serious allegations against the petitioner as he had tried to molest the victim, who is a small child of 8 years of age and had also extended threat to kill her, if she disclosed about the incident to anybody. There are chances of the petitioner's intimidating the witnesses, if extended

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benefit of bail. Therefore, he has argued that the present petition is liable to be dismissed.

5. I have heard learned counsel for the parties and have also gone through the material placed on record very carefully.

6. The petitioner is alleged to have sexually assaulted the victim on 08.09.2023. He is in custody for the last more than five months. The trial is likely to take some time. There is no basis for the contentions that there are chances of his intimidating the witnesses. Keeping in view the circumstances emanating from the record, the period spent by him in custody and attendant facts and circumstances of the case, I am of the considered opinion that no useful purpose would be served by keeping him in custody anymore.

7. Accordingly, the present petition is allowed and the petitioner is ordered to be released on regular bail, subject to his furnishing personal/surety bonds to the satisfaction of the trial Court/Duty Magistrate concerned. This order shall also be subject to the following conditions:-

(i) The petitioner shall not meet the victim or any other family member of her family and shall also not visit her house or try to make contact with her in any manner.

(ii) He shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court or to any Police Officer.

(iii) He shall not commit any similar offence while on bail.

8. In case of violation of any of the above conditions, the jurisdictional Court shall be empowered to consider the application for cancellation, if any, and pass appropriate orders in accordance with law.

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9. It is made clear that any observation made herein above is only for the purpose of deciding the present petition and the same shall have no bearing on the merits of the case.

02.02.2024

Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No