

Sr. No.210

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

CRM-M-60970-2023
Date of decision: 22st March, 2024

MINTU KUMAR**Petitioner**

versus

STATE OF HARYANA**Respondent**

CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Present: Mr. Gaurav Grover, Advocate and
Ms. Charu Sharma, Advocate
for the petitioner.

Mr. Kirpal Singh Thakur, AAG, Haryana.

HARPREET KAUR JEEWAN, J. (ORAL)

1. Prayer in the present petition filed under Section 439 Cr.P.C. is for grant of regular bail to the petitioner in case FIR No.147 dated 06.06.2023, under Sections 354, 354-A, 376, 511, 506 IPC, 1860 and under Sections 8, 18 of POCSO Act, 2012, registered at Police Station Sadar Panipat, District Panipat (Annexure P-1).
2. Learned counsel for the petitioner contends that the petitioner has been falsely implicated in the present case. The petitioner has no role to play in the alleged occurrence. Despite that, he is in custody since 03.06.2023. There is a delay of 02 years in filing the FIR, which is unexplained. The statement of the complainant/PW-1 (Annexure P-3) as well as the prosecutrix have already been recorded and there are found to be discrepancies in the said statements. It is further contended that the prosecutrix was taken to the Medical Officer, however, she refused to get herself medically examined and till date, no medical examination of

the prosecutrix has been conducted, as such, the offence under section 8 of the POCSO Act, 2012, is not attracted.

3. Learned State counsel has opposed the bail application on the ground that the victim is minor and the allegations levelled against the petitioner are serious in nature.

3.1. Learned State counsel has filed custody certificate of the petitioner/accused Mintu Kumar, reflecting that the petitioner is in custody for the last 09 months 13 days.

4. I have considered the aforesaid contentions.

5. As per the FIR, the petitioner is married. His wife is also living with him. As per the statement of the prosecutrix recorded during trial, at the time when the alleged occurrence took place in March 2021, the wife of the petitioner/accused and his children were present in the house. However, his wife left the house for a while. The complaint was moved for the first time on 06.06.2023 with the allegations of attempt of sexual abuse in March 2021. As per the version of the petitioner, medical examination of the prosecutrix was not conducted. In the FIR, the allegations pertaining to 03.06.2023 are teasing the prosecutrix when she was standing outside her house.

6. Investigation is complete. Final report/challan under Section 173 Cr.P.C. has been presented before the trial Court. The veracity of the statement of the victim is matter of trial. The material witnesses have already been examined. The petitioner is in custody for the last 09 months and 13 days. There is no apprehension of absconding the petitioner, as such, without commenting on the merits of the case and keeping in view the above facts, the present petition is allowed.

7.

The petitioner is ordered to be released on regular bail, subject to his furnishing adequate bonds/surety to the satisfaction of the trial Court/CJM, concerned.
8.

All the pending miscellaneous applications, if any, shall stand disposed of.

(HARPREET KAUR JEEWAN)
JUDGE

22st March, 2024
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<i>Whether speaking/reasoned</i>	:	<i>Yes/No</i>
<i>Whether reportable</i>	:	<i>Yes/No</i>