

CRM-M-61166-2023

210 IN THE HIGH COURT OF PUNJAB AND HARYANA
CHANDIGARH

CRM-M-61166-2023 (O&M)

Date of Decision: 05.02.2024

SAHIL ALIAS MONU

...Petitioner

V/S

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Ms.Rosi, Advocate
for the petitioner.

Ms. Geeta Sharma, DAG Haryana.

HARPREET SINGH BRAR J. (Oral)

1. This is the first petition filed under Section 439 of Cr.P.C. seeking grant of regular bail to the petitioner in the case bearing FIR No. 273 dated 14.07.2023 registered under Sections 201, 377, 384, 506, 34 of Indian Penal Code, Sections 67 and 67-A of Income Tax Act 2000 and Sections 6 and 12 of Protection of Children from Sexual Offences (POCSO) Act at Police Station Sadar Hansi, District Hisar.

2. Present FIR was lodged on the allegations that on 02.06.2023 at about 5.00 PM, the minor son of the complainant was alone at home. Ravi @ Lucky and Monu (petitioner herein) came to his house and threatened his son on the pretext that they are having a video recording of his son in their mobile phone and after making his son witness the video, they started blackmailing him that in case the his son did not perform sexual act with the petitioner, then they will show this video to his family members and on that pretext the petitioner performed wrongful act with the complainant's son and co-accused Ravi recorded the said act by making video in his phone and

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the accused persons started blackmailing and extracted Rs. 1500/- from his son and thereafter, they again demanded Rs. 5,000/- more.

3. Learned counsel for the petitioner *inter alia* contends that the alleged occurrence had taken place on 02.06.2023. The present FIR was lodged after a delay of 40 days. There is no medical evidence available on record to corroborate the bald allegations made by the complainant in the present FIR. Learned counsel further refers to the statement made by son of the complainant under Section 164 of Cr.P.C. and submits that out of the two videos allegedly made by the accused person, none has seen the light of the day till date and in the absence of any video recording, the whole case of the prosecution falls flat. The petitioner is behind the bars since 21.07.2023.

4. Per contra, learned State counsel has filed the status report by way of an affidavit of Pardeep Yadav, HPS Deputy Superintendent of Police, Hansi, District Hisar on behalf of respondent-State of Haryana and opposes the prayer for grant of regular bail to the petitioner on the ground of heinousness of crime.

5. Having heard the learned counsel for the private parties and after perusing the record of the case, it transpires that the petitioner is behind the bars since 21.07.2023. Investigating Agency has concluded the investigation and submitted the final report under Section 173 of Cr.P.C. on 21.10.2023. Trial of the case has not commenced as none out of the 18 prosecution witnesses has been examined so far and the petitioner is not involved in any other case. So further incarceration of the petitioner without there being the prospect of the conclusion of the trial in the near future, would be in violation of Article 21 of the Constitution of India.

Culpability, if any, would be determined at the time of the trial.

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6. In view of the above, the present petition is allowed and the petitioner- Sahil @ Monu is ordered to be released on regular bail during trial on his furnishing bail bonds/surety bonds to the satisfaction of Illaqa Magistrate/Trial Court.
7. Nothing observed herein-above shall be construed as expression of opinion of this Court on merits of the case and the trial Court shall proceed without being prejudiced by observations of this Court.

05.02.2024
Ajay Goswami

(HARPREET SINGH BRAR)
JUDGE

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