

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

**CRA-S-3589-2023 (O&M)
Date of decision : 20.01.2024**

Krishna @ Ahaan ...Appellant

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Parminder Singh, Advocate,
for the appellant.

Mr. Kiran Pal Singh, AAG, Haryana,
for the respondent.

MAHABIR SINGH SINDHU, J.

Present appeal has been preferred under Section 101 of the Juvenile Justice (Care and Protection of Children) Act, 2015 (for short, 'the Act'), for setting aside of order dated 16.11.2023, passed by learned Additional Sessions Judge, Ambala, whereby, application under Section 438 of the Code of Criminal Procedure, 1973 (for short, 'Cr.P.C') for seeking pre-arrest bail to the appellant-Child in Conflict with Law, (for short, 'CCL') in FIR No.503 dated 12.10.2023, under Sections 342 & 506 of the Indian Penal Code, 1860 (for short, 'the IPC'); and Sections 6, 10 & 12 of the Protection of Children from Sexual Offences Act (for short, 'POCSO Act'), registered at Police Station Baldev Nagar, District Ambala, was dismissed.

2. The case of prosecution is that complainant (father of the victim child) lodged an F.I.R. against the CCL as well as co-accused stating therein that in the month of June, 2023, CCL

came to his house and had taken his son (aged about 11 years) on the pretext of playing and attempted sodomy with the minor child. Also alleged that five-six days prior to the alleged incident, co-accused also did the same act with the victim and CCL threatened him not to disclose about the incident to anyone.

3. Contends that CCL is not named in the FIR; rather, he has been falsely implicated in this case. Also contends that CCL is a juvenile, (aged about 13 years) and as such, he is not sexually active at this tender age. Further contends that alleged incident took place in the month of June, 2023, and at that time, CCL was not residing in Subhash Nagar, Ambala, and moreover, the matter was reported to the police after a considerable delay on 11.10.2023. Lastly contends that CCL is ready to join the investigation, as and when required; but he be granted the concession of pre-arrest bail.

4. *Per contra*, learned State counsel, while opposing the prayer, submits that CCL as well as the co-accused have committed a heinous crime; hence, does not deserve the concession of pre-arrest bail. Further submitted that both of them have committed sodomy with a minor child and the medical record fully supports the prosecution case. Lastly submitted that victim has specifically named the CCL as well as co-accused in his statement recorded under Section 164 Cr.P.C, thus, he does not deserve any concession.

5. Heard learned counsel for the parties and perused the paper-book.

6. Perusal of the order dated 16.11.2023 reveals that learned Children Court-cum-Additional Sessions Judge-Fast Track Special Court under POCSO Act, Ambala, while rejecting the pre-arrest bail of present CCL, in Para 8, observed as under:-

“Heard. As per the prosecution version, the CICL-petitioner alongwith other co-accused namely Chanpreet @ Gogi have committed penetrative sexual assault with the child victim. The statement of child victim under Section 164 Cr.P.C has been recorded, wherein he has stated that the above said Chanpreet @ Gogi and the present CICL-petitioner have committed penetrative sexual assault with him. The allegations against the CICL-petitioner are very serious. Considering all these facts, totality of the circumstances and seriousness of the allegations, no ground is made out for grant pre-arrest bail.”

7. Although, learned counsel for the CCL raised a plea that he was not named in the FIR, but that is factually incorrect; rather, there are specific allegations against him for committing the sexual assault with the victim and who was only 11 years of age at the time of alleged occurrence. Even the victim has specifically named the present CCL in his statement recorded under Section 164 Cr.P.C.

8. Above all, the affidavit of Ramesh Kumar (HPS), DSP, indicates that during investigation, Medico-Legal Case Summary of the victim was obtained from the PGIMER, Chandigarh, and which is brought on record as Annexure R-2. A perusal of the aforesaid summary reveals that victim remained admitted in PGIMER, Chandigarh, from 11.10.2023 to 19.10.2023 and relevant part of the same reads as under:-

***“Injuries Sustained (Penetrative Sexual Assault)
Operation Performed Conservative Management
Nature of Injury Simple
Type of Injury (Blunt/Sharp) Blunt
Any other comments Psychiatry follow up needed”***

9. In view of the above factual position noticed, even the contention raised on behalf of the CCL that he was not sexually active is also not helpful; hence, rejected.
10. As a result of the above, *prima facie*, complicity of the CCL seems to be apparent.
11. Consequently, there is no option, but to dismiss the appeal.
12. Ordered accordingly.
13. The above observations may not be construed as an expression of opinion on merits of the case; rather confined only to decide the present bail matter.
14. Pending application(s), if any, shall also stand disposed off.

20.01.2024
adhikari

(MAHABIR SINGH SINDHU)
JUDGE

Whether speaking / reasoned :	Yes	No
Whether Reportable :	Yes	No