



CRM-M-59173-2024

-1-

208

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

**CRM-M-59173-2024 (O&M)
Date of Decision: 29.01.2025**

Mohammad Noor alias Noor Mohammad

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Ashish Handa, Advocate
for the petitioner.

Mr. Surinder Kumar Dagar, DAG, Haryana.

JASGURPREET SINGH PURI, J. (ORAL)

1. The present petition has been filed under Section 483 of the BNSS, 2023 for grant of regular bail to the petitioner in case FIR No.22, 09.01.2023, under Section 10 of the POCSO Act, 2012 and under Section 506 of the IPC, registered at Police Station Palla, Faridabad, District Faridabad, Haryana.

2. Learned counsel for the petitioner submitted that the petitioner is in custody for 2 years and 18 days and the investigation of the case is complete and rather the present case is at the prosecution evidence stage wherein the prosecutrix, who is stated to be 10 years of age, has already been fully examined. He further submitted that it is a case where the allegations were made in the FIR by the mother of the prosecutrix that on 09.01.2023, she had gone to leave her son for tuition classes and when she returned to the house the door was closed and her daughter of 10 years of age was inside the house. As she was not opening the door, she started calling her name loudly and when her

**CRM-M-59173-2024****-2-**

daughter opened the door, she saw that in the room the petitioner was also present and he pushed the complainant and ran away and after inquiring from the daughter, she told that wrongful act has been committed upon her with regard to touching of her body. He also submitted that in fact there is caste divided politics in the area wherein the petitioner has been targetted and the story of the FIR is highly improbable because a 10 years old girl would not open the bolt of the door and there is no allegation in the FIR itself that the complainant saw her daughter without clothes but the allegation is only with regard to what her daughter had told. He further submitted that because of the caste based politics in the area, there has been tutoring of small child and the petitioner has been falsely implicated in the present case.

3. Learned counsel for the petitioner further submitted that the petitioner is a married man and is having his own daughters and such kind of allegations were totally improbable and even otherwise also, the petitioner has already faced incarceration for more than 2 years and material witness, who is the prosecutrix has already been examined and therefore, the petitioner may be considered for grant of regular bail.

4. On the other hand, Mr. Surinder Kumar Dagar, learned DAG, Haryana has submitted that so far as the custody of the petitioner is concerned, the same is correct and he is in custody for 2 years and 18 days. He further submitted that considering the seriousness of the allegations made against the petitioner pertaining to touching the body of a 10 years old girl, the petitioner does not deserve the concession of regular bail. So far as the antecedents of the petitioner is concerned, he is not involved in any other case and has clean antecedents.

5. I have heard the learned counsels for the parties.

**CRM-M-59173-2024****-3-**

6. It is a case where the custody of the petitioner is come out to be 2 years and 18 days. The prosecutrix stands examined and as per the learned counsels for the parties, she has supported the prosecution version. It is the case of the learned counsel for the petitioner that the story so put in the FIR is highly improbable and there is no allegation that the complainant, who is the mother, had seen her daughter without clothes but she has so stated that her daughter has told her the aforesaid story. He also submitted that all the allegations can be proved only at the time of trial by leading evidence and it is also the case of the learned counsel for the petitioner that the allegations were based on the caste politics in the area. However, it is the case of the learned State Counsel that since there was a statement of a 10 years old girl with regard to the aforesaid allegations, the same cannot be disbelieved at this stage.

7. After perusing the FIR and contention raised by the learned counsel for the parties, this Court is of the considered view that there is no doubt that the allegations against the petitioner were serious in nature particularly in view of the fact that the age of the prosecutrix is stated to be 10 years and the allegation was with regard to touching of the body of the aforesaid prosecutrix. However, this Court would also not lose sight of the fact that the petitioner has already suffered incarceration for more than 2 years and prosecutrix stands examined and so far as the argument of the learned counsel for the petitioner that the petitioner has been falsely implicated in the present case is concerned, the same can only be dealt at the time of trial by leading evidence as to whether the aforesaid girl of the age of 10 years was tutored because of caste based politics or not and at the time of consideration of regular bail such an observation cannot be made. Furthermore, it is neither the case of the State nor it has been so argued by the learned State counsel that in case the

**CRM-M-59173-2024****-4-**

petitioner is released on bail, then he may abscond or flee from justice or may repeat the offence, especially because he is having clean antecedents and is not involved in any other case.

8. This Court therefore without making any observation on the merits of the case and solely on the basis of the long custody of the petitioner, deems it fit and proper to grant regular bail to the petitioner. Consequently, the present petition is allowed and the petitioner is ordered to be released on regular bail on furnishing bail bond/surety bond to the satisfaction of the trial Court/Duty Magistrate concerned, if not required in any other case.

9. However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is only meant for the purpose of decision of present petition.

29.01.2025*Bhumika***(JASGURPREET SINGH PURI)
JUDGE**

- | | |
|------------------------------|--------|
| 1. Whether speaking/reasoned | Yes/No |
| 2. Whether reportable: | Yes/No |