



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CRM-M No.58998 of 2024 (O&M)
Date of decision: 08.01.2025

Tushar Andley

....Petitioner

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. P.S. Ahluwalia, Advocate
with Ms. Bhavi Kapur, Advocate
and Mr. Madhur Panwar, Advocate for the petitioner.

Mr. Abhinash Jain, DAG, Haryana.

NAMIT KUMAR J. (Oral)

CRM No.50798 of 2024

Prayer in the instant application filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, is for placing on record the copy of medical record of the petitioner as Annexures P-4 to P-11.

Allowed as prayed for subject to all just exceptions.

CRM-M No.58998 of 2024

1. Prayer in this petition filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023, is for grant of regular bail to the petitioner in FIR No.35 dated 23.10.2024, registered under Section 67-B of Information & Technology Act, 2000 and Section 13 of the Protection of Children from Sexual Offences Act, 2012 (in short 'the POCSO Act') at Police Station Cyber Crime Haryana, Panchkula.

2. As per the prosecution case, a cyber TipLine Report No.199695929 was received through National Cyber Crime Reporting

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Portal, indicating that the mobile user of number 08800764448 was involved in uploading child pornography materials and images to Google Drive. As a result, the impugned FIR under Section 67-B of the Information Technology Act was registered at Police Station Cyber Crime, Haryana, Panchkula. Looking into the nature of the uploaded content, an offence under Section 13 of the POCSO Act was also added in the case. During the investigation, the CAF ID linked to the mobile number revealed that it was registered in the name of Atul Andley, son of P.N. Andley, a resident of Sector 111, Gurugram. On 24.10.2024, Atul Andley was questioned and during investigation, he disclosed that the said mobile number was being used by his son, Tushar Andley (petitioner herein). On 25.10.2024, Tushar Andley was brought in for questioning, and the mobile phone involved in the case was recovered and taken into police custody. After gathering evidence, the petitioner was arrested on 25.10.2024. Additionally, on 26.10.2024, a disclosure statement of the petitioner/accused was recorded and he also provided 15 printouts of obscene photographs to the investigation agency, which were seized by the police.

3. Learned counsel for the petitioner submits that the petitioner is innocent and has been falsely implicated in the present case as he is a disabled young boy, suffering from permanent mental illness i.e. Moderate Impairment as per the Disability Certificate (Annexure P-2). He further submits that petitioner is a special child by birth and to corroborate the said averment, he has produced the



assessment reports (Annexures P-4 to P-11) of various doctors and institutes from where the petitioner took treatment.

4. Learned counsel for the petitioner further submits that after completing his 10th and 12th exams, the petitioner spent over a decade visiting various slums and NGOs to interact and help children, however, due to his disability, he struggled to connect with people of his own age or even younger, and found comfort in the company of much older individuals or young children around 5 years old in the slums and there is a possibility that he being a special child, may have been used, or his resources or connections may have been used by others in the slums for the alleged activities that led him to this trouble. He further submits that the petitioner is dependent upon his parents and has been involved in the FIR on the basis of his own disclosure statement only. His mental condition is also deteriorated day by day in custody.

5. Learned counsel for the petitioner further contends that the petitioner is in custody for the last 02 months and 12 days; he is not involved in any other case. He also submits that the investigation in the present case is complete; challan stands presented and out of 07 PWs, all of whom are official witnesses, none has been examined so far and the trial is likely to take a considerable time to conclude and, therefore, no fruitful purpose would be served by detaining the petitioner behind the bars.

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6. Per contra, learned State counsel on instructions from DSP/HPS Suraj Chawla and ASI Jasbir Singh No.1329/KNL, Police Station Cyber Crime, Haryana, Panchkula, has opposed the prayer for grant of regular bail to the petitioner on the ground that the petitioner is the main accused and he has exploited the children and, therefore, he does not deserve the concession of regular bail. However, he could not refute that out of total 07 prosecution witnesses, no PW has been examined till date; the petitioner is not involved in any other case; he is in custody since 25.10.2024 and the trial may take a considerable time to conclude.

7. I have heard learned counsel for the parties and perused the record.

8. Without commenting anything on merits of the case and considering the fact that the petitioner is not involved in any other case; he is in custody for the last 02 months and 12 days; investigation is complete; challan stands presented and out of 07 PWs, none has been examined so far and the trial is likely to take considerable time to conclude, the present petition is allowed and the petitioner is directed to be released on regular bail subject to his furnishing bail/surety bonds to the satisfaction of the trial Court/Illaq Magistrate/Duty Magistrate concerned.

(NAMIT KUMAR)
JUDGE

08.01.2025

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Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No