



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

**CRR-2372-2024 (O&M)
Date of Decision:05.05.2025**

Gangesh

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present:- Mr. Abhimanu, Advocate for the petitioner.

Mr. Vishal Kashyap, DAG, Haryana.

JASGURPREET SINGH PURI J.(Oral)

1. The present revision petition has been filed challenging the order dated 05.09.2024 passed by the learned Additional Sessions Judge, Fast Track Special Court, Faridabad, whereby the application filed by the present petitioner for grant of default bail was dismissed.

2. Learned counsel appearing on behalf of the petitioner submitted that in the present case, FIR was lodged against the petitioner under the provisions of Sections 323, 506 of IPC and Sections 6, 10 and 12 of POCSO Act, registered at Police Station Saran, Faridabad on 02.07.2024. The petitioner was arrested on 03.07.2024 and his remand was sought on 04.07.2024. He submitted that he moved an application under Section 167(2) of the Cr.P.C. for grant of default bail to the petitioner on the ground that 60 days had already elapsed and the Investigating Officer had already deleted the provision of Section 6 of the POCSO Act. He



further submitted that under Section 12 of the POCSO Act, the maximum sentence is up to 3 years and therefore, the challan ought to have been presented within a period of 60 days. He submitted that, considering the aforesaid facts and circumstances, an application for grant of default bail was filed, which was erroneously dismissed by the learned Additional Sessions Judge, Fast Track Special Court, Faridabad and therefore, the impugned order dated 05.09.2024 may be set aside and the petitioner may be released on bail on the basis of default bail.

3. On the other hand, learned State counsel submitted that the learned counsel for the petitioner, has not disclosed the complete facts of the present case and in fact the chronological events are as stated in the reply filed by the respondent-State. He submitted that the FIR in the present case was registered on 02.07.2024 under the provisions of Sections 323 and 506 of the IPC and Sections 6, 10 and 12 of the POCSO Act. On 03.07.2024, the petitioner was arrested and thereafter remand was sought on 04.07.2024. On 04.07.2024, when the remand of the petitioner was sought, the concerned Investigating Officer deleted the provision of Section 6 of the POCSO Act, but this was noticed by the learned Magistrate. Consequently, on the very next date i.e. 05.07.2024, the aforesaid provision of Section 6 of the POCSO Act was again added. In this way the total period for presentation of the challan was 90 days, as the maximum sentence under Section 6 of the POCSO Act is 20 years or up to that duration and therefore, the requisite period for filing the challan was 90 days and not 60 days. He submitted that the challan in the present case was presented on 27.09.2024, which is within the period of 90 days. Therefore,



the learned Additional Sessions Judge, Fast Track Special Court, Faridabad, has rightly dismissed the bail application.

4. He further submitted that while referring to the affidavit filed by the respondent-State, disciplinary action has been taken against the Investigating Officer (IO) as well as the concerned SHO, who wrongfully deleted the provision of Section 6 of the POCSO Act and proceedings have already been initiated against them. He also submitted that the mere fact that due to some inadvertent mistake or otherwise the concerned IO or SHO deleted the provisions of Section 6 of POCSO Act which was otherwise invoked at the time of registration of the FIR and the same was got rectified in just 01 day and again on next date i.e. 05.07.2024, the same was again added would not mean that the petitioner would be entitled for the grant of default bail because of this reason especially in view of the fact that the re-addition of Section 06 of POCSO Act on 05.07.2025 was before the expiry of 60 days and therefore under no circumstances, the petitioner is entitled for the grant of default bail.

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

6. The learned Additional Sessions Judge, Fast Track Special Court, Faridabad, has dismissed the application of the petitioner for the grant of default bail under Section 167(2) Cr.P.C. The dates in the present case are not in dispute. The FIR was registered on 02.07.2024 under Sections 323 and 506 of IPC and Sections 6, 10 and 12 of the POCSO Act. On 04.07.2024 i.e. two days after the registration of the FIR, the IO deleted the aforesaid provision of Section 6 of the POCSO Act. However, as per the learned State counsel, on the intervention of the learned Magistrate, the



same provision was re-added on the very next date i.e. 05.07.2024 and in this way, once the aforesaid provision of Section 6 of the POCSO Act was re-added on 05.07.2024, the period for presentation of the challan was 90 days and not 60 days, in view of the fact that the punishment under Section 6 of the POCSO Act is life imprisonment or up to 20 years.

7. The argument which was raised by learned counsel for the petitioner that there was no permission sought by the trial Court/competent Court for addition of Section 6 of the POCSO Act is concerned, the same is misconceived because the aforesaid addition was made prior to the expiry of 60 days and not thereafter. Had it been a case where the addition was made after the expiry of 60 days then it would have been a different situation. However, admittedly, the provision of Section 6 was re-added just one day later i.e. on 05.07.2024. The total period for presentation of challan was 90 days and not 60 days. Another argument raised by the learned counsel for the petitioner that at the time of seeking remand, no such provision was in existence and that even during various communications, Section 6 of the POCSO Act was not mentioned, is also misconceived because of the reason that, once Section 6 of the POCSO Act was added on 05.07.2024, the period within which the challan was to be presented became 90 days and could never be 60 days. Admittedly, the challan was presented on 27.09.2024, which was well before the expiry of the 90 days period

8. In view of the aforesaid factual position as stated by the learned counsels for the parties, there is no merit in the present revision petition and no illegality or perversity can be found in the order dated



05.09.2024 passed by the learned Additional Sessions Judge. Consequently, finding no merit in the present revision petition, the same is hereby dismissed.

9. Pending application(s), if any, shall stand disposed of.

(JASGURPREET SINGH PURI)
JUDGE

05.05.2025

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No