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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-59121-2023
Date of Decision: 18.02.2025

Bheem Sen

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Tanmoy Gupta, Advocate
for the petitioner.

Mr. Arjun Lakhanpal, Addl. AG, Haryana.

JASGURPREET SINGH PURI, J. (ORAL)

1. The present petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the petitioner in case FIR No.69 dated 19.03.2023, under Sections 363, 506 of the IPC and Sections 4, 6, 17, 18 of the POCSO Act, 2012, registered at Police Station Sector-56, Gurugram.

2. The translated version of the FIR as so reproduced in Para No.2 of the petition is reproduced as under:-

*“To, SHO sir, Police Station Sector-56, Gurugram.
Respected sir, it is humbly submitted that I, Inderpal Singh son of Late Sh. Khushal Singh am resident of village Koyal, P.O. Sanglakoti, District Paudi Garhwal, Uttarakhand currently at Sushant Lok, Sector-56, E-Block, Saisadan House, E-132, Gurugram. My daughter Kanishka Rawat lives with me in Sector-56, E-132. On dated 17.03.2023, I had my daughter Kanishka board an auto at Hong Kong Bazaar to leave for her school in*



Wazirabad at 07:00 o'clock in the morning. That my daughter did not reach the school, which I confirmed from the school itself, and I had handed over Rs.4,000/- to my daughter to deposit the same for her school fees as well. That I have kept on searching for my daughter but I was unable to locate my daughter. Now I have approached the police station, kindly do the necessary investigation and my daughter be located. The appearance of my daughter is as follows: Light brown skin, round face, healthy body, a 'til' mark on her lips who is wearing her school dress of white t-shirt, white pant and white shoes and her height is about 5 feet. My daughter may kindly be searched for who is merely 15 years old.”

3. It is submitted by learned counsel for the petitioner that the petitioner is in custody for 1 year and 10 months and out of the total 20 cited prosecution witnesses, 7 have been examined. He further submitted that it is a case where the petitioner has played no active role in the alleged occurrence and the main accused was Vishnu, who was a juvenile and he has been extended the benefit of bail by virtue of being juvenile and so far as the petitioner is concerned, the allegations against him is only pertaining to assisting the aforesaid Vishnu and since the petitioner has already faced incarceration for 1 year and 10 months, he may be considered for grant of regular bail.

4. Learned counsel for the petitioner further submitted that the version of the prosecutrix was contradictory before learned Magistrate and before Legal Officer, Child Welfare Committee and since no active role has been alleged to the petitioner, he may be considered for grant of regular bail and also on the ground that the main accused, namely, Vishnu has been



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released on bail being a juvenile.

5. On the other hand, Mr. Arjun Lakhanpal, learned Addl. AG, Haryana on instructions from ASI Inder Singh has submitted that it is a case where as per the allegations, the prosecutrix was of the age of 15 years only and it was reported by the complainant that she had to take autorickshaw at Hong Kong Bazaar from where she was to go to school but she did not reach school on 17.03.2023 and the complainant had given ₹4,000/- to the prosecutrix to deposit her school fees but when he was inquired and searched for the prosecutrix, she was not found and in fact she was taken away by the aforesaid co-accused, namely, Vishnu, who committed the offence of rape with her. Learned Additional A.G., Haryana, while referring to the affidavit filed by Assistant Commissioner of Police, Sadar, District Gurugram submitted that after the minor girl was traced, she rather narrated the entire story in which the role of the petitioner was mentioned and she had stated that she was taken to the petitioner's room at Wazirabad and when she resisted, then petitioner gagged her mouth and took her inside the room where the co-accused, namely, Vishnu committed wrong act with her and the present petitioner also tried to do wrong act with her but she started crying loudly. Thereafter, both the accused, namely, Bheem Sen (Petitioner) and Vishnu had left her at Devi Lal Stadium on 18.03.2023 at 04:00 AM on motorcycle of the present petitioner.

6. Learned State Counsel further referred to Para 5 of the affidavit and submitted that the statement of the prosecutrix was recorded under Section 164 Cr.P.C. before learned JMIC, Gurugram on 22.03.2023 and thereafter, she was also produced before CWC where she stated that the co-accused, namely, Vishnu had committed wrong act with her and Rohit and Bheem Sen (Petitioner) had also tried to commit wrong act with her. He also submitted that



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the mere fact that the aforesaid co-accused, namely, Vishnu, who was a juvenile, has been extended the benefit of bail would not mean that the present petitioner, who is not a juvenile, is at parity with the aforesaid co-accused. He submitted that considering the gravity and seriousness of the offence wherein a direct role has been attributed to the present petitioner, the petitioner does not deserve the concession of regular bail and there is an apprehension that in case the petitioner is released on bail, then he may not only abscond or flee from justice but may even influence the remaining witnesses.

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

8. It is a case where as per the allegations the complainant, who is the father, had alleged that his minor daughter of the age of 15 years is missing and thereafter, when she was traced, she had narrated the story with regard to making allegations against the petitioner and the other co-accused. As per the affidavit filed by the State and submissions made by learned State Counsel, direct role has been attributed to the present petitioner that he also tried to commit wrong act with the minor girl (Prosecutrix) which she had stated not only before the police but also before the CWC. Therefore, this Court is of the considered view that considering the aforesaid gravity and seriousness of the offence, the petitioner does not deserve the concession of regular bail. The fact that other co-accused, namely, Vishnu has been granted the benefit of bail would not mean that the petitioner is at parity with the aforesaid co-accused because as per learned counsels for the parties, the aforesaid co-accused was a juvenile whereas the present petitioner is not a juvenile. Furthermore, the apprehension as expressed by learned State counsel also cannot be ignored and carries weight.

9. Consequently, finding no merit in the present petition, the same is



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hereby dismissed.

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.

18.02.2025

Bhumika

**(JASGURPREET SINGH PURI)
JUDGE**

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