



CRM-M-29731-2024

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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-29731-2024

Date of decision: 24.02.2025

Kajal Sarkar

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MRS. JUSTICE **AMARJOT BHATTI**

Present: Mr. Dinesh Kr. Dakoria, Advocate
for the petitioner.

Ms. Ambika Sood, Addl. A.G., Haryana.

AMARJOT BHATTI, J.

Petitioner has filed 2nd petition under Section 439 of Cr.P.C. for grant of regular bail in FIR No.686, dated 23.11.2022 (Annexure P-1), under Section 6 of POCSO Act and Section 506 IPC registered at Police Station Sadar, Gurugram.

2. As per facts of the case, complainant-mother of the victim gave her statement that she is doing the work of domestic helper. On 21.11.2022 her brother dialled 100 number that the victim age about 11 years has been raped. The complainant along with her family and the victim reached police station. The victim was interviewed by Legal Advisor Mrs. Nimala Yadav on which his daughter stated that no wrongful act was done with her and she also gave in writing in front of said Legal Advisor. On returning home, she felt sad about the condition of her daughter and when she enquired from the victim about her sadness, she started crying and disclosed that the boy namely-Kajal did wrong act with



her. She disclosed about the entire occurrence that about 4 days ago Kajal who lived in their neighbourhood indulged in sexual act with her. She was threatened by the boy that in case she disclosed anything to anyone she would be killed. The complainant had talked with her family and ultimately lodged the report with the police. The matter was again verified by Legal Advisor-Mrs. Nirmala Yadav and ultimately present FIR was registered.

3. Learned counsel for the petitioner argued that allegations levelled against the petitioner are false and without any basis. Petitioner was arrested in this case on 24.11.2022 and since then he is behind the bars. It is further pointed out that his first regular bail application bearing CRM-M-55501-2023 was dismissed as withdrawn vide order dated 06.03.2024 (Annexure P-1). At present trial in this case is going at a slow pace. Conclusion of trial may take long time. Material witnesses have been examined. Mother of petitioner is having health issue, her medical record is Annexure P-2. Report of RFSL Bhondsi Annexure P-6 is in favour of petitioner. Therefore, considering the long custody, his second regular bail application may be allowed.

4. Bail application was opposed by learned Counsel representing State. Detailed status report has been filed. It is pointed out that there are specific serious allegations against the present petitioner. The victim was young girl of 11 years at the time of said occurrence. The medical record is annexed with the status report (Annexure R-1). Statement of victim is also recorded under Section 164 Cr.P.C (Annexure R-2) by learned Judicial Magistrate Gurugram on dated 24.11.2022 where she confirmed the allegations. Report of Regional Forensic Science Laboratory is Annexure R-3. Statement of victim as PW-1, statement of mother of the victim as



PW-3 and statement of father of victim as PW-4 have been recorded confirming the allegations. Therefore, considering the nature of allegations and its gravity, he is not entitled to be released on bail.

5. I have considered the facts and the arguments advanced before me. It is rightly pointed out that the victim in this case is a minor girl age about 11 years who initially denied the allegations and thereafter when her mother asked her, she narrated the entire episode. Present petitioner is specifically named. During investigation, on 24.11.2022 the statement of victim was recorded under Section 164 Cr.P.C. (Annexure R-2) where she again confirmed the allegations. At present challan is already presented and recording of prosecution witnesses is going on. Along with status report statements of witnesses are annexed as Annexure R-4 to R-8. Perusal of statement of the victim age about 10 years PW-1 recorded by the trial Court she again confirmed the allegations.

Matter is serious in nature. Trial in this case is going on. Considering, the gravity of offence, at this stage, I do not find it a fit case for grant of regular bail and the same is accordingly dismissed.

(AMARJOT BHATTI)
JUDGE

24.02.2025

monika

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