

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CRMPM No.: 1807 of 2020

Decided on: 03.12.2020.

Akshay Kumar PathaniaPetitioner.

Versus

State of Himachal Pradesh ...Respondent.

Coram

The Hon'ble Mr. Justice Ajay Mohan Goel, Judge.

Whether approved for reporting?¹ No

For the petitioner : Mr. Nitin Thakur, Advocate.

For the respondent : M/s Sumesh Raj, Dinesh Thakur
and Sanjeev Sood, Additional
Advocate General with Ms. Divya
Sood, Deputy Advocate General.

(through Video Conference)

Ajay Mohan Goel, Judge (Oral)

By way of this petition filed under Section 439 of the Code of Criminal Procedure Code, the petitioner has prayed for grant of regular bail in FIR No. 141 of 2019, dated 12.12.2019, registered at Police Station, Nadaun, District Hamirpur, HP, under Sections 376, 504 and 506 of the Indian Penal Code (hereinafter referred to 'IPC' for short) read with Section 4 of the Prevention of Children from Sexual

¹ *Whether reporters of the local papers may be allowed to see the judgment?*

Offences, Act, 2012, (hereinafter to be referred as 'POCSO Act' for short).

2. Learned Counsel for the petitioner has argued that the petitioner is innocent and is not guilty of the offences alleged against him. He has further argued that age of the petitioner is 20 years and that of the victim was 17 years nine months as on the date when the offence is alleged to have taken place. He further submits that the petitioner is in custody since 13th December, 2019, and as after the framing of the charges, the statements of the victim as well as her parents stand recorded and further as no recovery etc. is to be effected from the petitioner, he be released on bail, on such conditions as the Court deems fit and proper because no purpose is going to be served by keeping him in judicial custody.

3. On the other hand, learned Additional Advocate General while opposing the bail submitted that taking into consideration the fact that the allegations levelled against the petitioner are grave and serious, it will not be in the interest of justice to release the petitioner on bail because there is each and every possibility that the petitioner, if released on bail, may hamper the course of trial by trying to influence and

win over the witnesses, and accordingly, he has prayed that this petition be dismissed.

4. Having heard learned Counsel for the petitioner and having perused the status report, in my considered view, no purpose is going to be served by keeping the petitioner in judicial custody, as it is not in dispute that the statements of the victim as well as her parents already stand recorded and it is only the statement of the Investigating Officer, which is now to be recorded. The Court has also been informed that recording of statement of the Investigating Officer stands deferred from the month of March, 2020 onwards on account of COVID-19 pandemic. Whether or not the petitioner is guilty of the offences alleged against him is a matter of trial, and if in case, learned Trial Court finds him guilty, then, law will take its own course. The apprehension raised by learned Additional Advocate General that the petitioner on release may try to win over and influence the witnesses now no more exists as the statements of victim as well as her parents already stand recorded.

5. Accordingly, this bail petition is allowed and the petitioner is ordered to be released on bail in FIR No. 141 of 2019, dated 12.12.2019, registered at Police Station Nadaun,

District Hamirpur, HP, under Sections 376, 504 and 506 of the IPC and Section 4 of the POCSO Act, on his furnishing personal bail bond to the tune of ₹25,000/- with one surety in the like amount to the satisfaction of learned ACJM/JMIC, Nadaun, within a period of two weeks from today, subject to the following conditions:-

- i) *Petitioner shall attend the trial Court on each and every date of hearing and if prevented by any reason to do so, seek exemption from appearance by filing appropriate application;*
- ii) *He shall not tamper with the prosecution evidence in any manner whatsoever.*
- iii) *He shall not make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court or the Police Officer; and*
- iv) *He shall not leave the territory of this Country.*

6. It is clarified that the findings which have been returned by this Court while deciding this petition are only for the purpose of adjudication of the present bail petition and learned Trial Court shall not be influenced by any of the findings so returned by this Court in the adjudication of this petition during the trial of the case. It is further clarified that in case the petitioner does not complies with the conditions which have been imposed upon him while

granting the present bail, the State shall be at liberty to approach this Court for the cancellation of the bail.

The petition stands disposed of in above terms.

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**(Ajay Mohan Goel)
Judge**

December 03, 2020
(narendar)

High Court of H.P.