

**IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA**

**Cr. MP(M) No.: 1952 of 2020**

**Date of Decision: 11.12.2020**

Sunil Kumar

....Petitioner.

Vs.

State of Himachal Pradesh

.....Respondent.

***Coram:***

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

***Whether approved for reporting?<sup>1</sup> No.***

For the petitioner:

Mr. N.K. Thakur, Senior Advocate, with  
M/s Divya Raj Singh and Karan Veer  
Singh, Advocates.

For the respondents:

Mr. Sanjeev Sood, Additional Advocate  
General, with Ms. Divya Sood, Deputy  
Advocate General.  
(Through Video Conferencing)

***Ajay Mohan Goel, Judge (Oral):***

By way of this petition filed under Section 439 of the Code of Criminal Procedure, the petitioner has prayed for grant of bail in FIR No. 18 of 2020, dated 20.05.2020, registered under Sections 354-A, 354-C, 376, 452, 506 of the Indian Penal Code, Sections 4 and 14 of the POCSO Act and Section 67-A of the I.T. Act at Women Police Station, Una, District Una, H.P.

**2.** Learned Senior Counsel for the petitioner submits that the petitioner is a 20 years old boy, who is in custody post lodging of the

<sup>1</sup> Whether the reporters of the local papers may be allowed to see the Judgment?

FIR since 20<sup>th</sup> May, 2020. He further submits that investigation is complete and challan has also been filed and, therefore, as now nothing is to be recovered from the petitioner, it will be in the interest of justice in case, the petitioner is ordered to be released on bail, because he has been falsely implicated in the case and is not guilty of the offences alleged against him. Learned Senior Counsel further submits that in the event of grant of bail to the petitioner, he shall comply with all the conditions, which may be imposed upon him by the Court and in the event of any of the conditions being flouted by him, the State can always approach this Court for recalling the order of grant of bail.

**3.** Opposing the bail petition, learned Additional Advocate General has argued that taking into consideration the gravity of the offences alleged against the petitioner, it will not be in the interest of justice in case this petition is allowed and the petitioner is ordered to be released on bail, because post release on bail, there is every possibility that the petitioner may try to influence the witnesses and he may also try to evade the trial. Accordingly, he submits that the bail petition be dismissed.

**4.** I have heard learned counsel for the parties and have also gone through the pleadings as well as the status report which has been filed.

**5.** Though there is no doubt that the offences alleged against the petitioner are grievous in nature, but taking into

consideration the fact that the petitioner is a young boy of 20 years age and further the victim was also above 16 years of age when the alleged incident is stated to have taken place, in my considered view, as of now, no purpose is going to be achieved by keeping the petitioner in custody, as admittedly, investigation is complete, no recovery etc. is to be made from the petitioner and challan already stands filed in the Court.

**6.** It is apt to mention here that this Court had, on the request of learned Additional Advocate General, deferred the hearing of the case, to enable the State to place on record the report with regard to the alleged allegation of pictures of the victim having been made viral on Tik Tok. Today, learned Additional Advocate General has submitted that his instructions are to the effect that because the Tik Tok App has now been banned in India, therefore, it is very difficult for the State to retrieve any such data.

**7.** Be that as it may, as already observed above, because this Court is of the view that presently no purpose is going to be served by detaining the petitioner in custody, accordingly, this petition is allowed and the petitioner is ordered to be released on bail in FIR No. 18 of 2020, dated 20.05.2020, registered under Sections 354-A, 354-C, 376, 452, 506 of the Indian Penal Code, Sections 4 and 14 of the POCSO Act and Section 67-A of the I.T. Act at Women Police Station, Una, District Una, H.P., subject to his furnishing bail bonds in the sum of Rs.50,000/- with one surety of the like amount to the satisfaction of concerned Chief

Judicial Magistrate/Additional Chief Judicial Magistrate/Judicial Magistrate, 1<sup>st</sup> Class. The petitioner shall also abide by the following conditions:

*“(a) He 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;*

*(b) He shall not tamper with the prosecution evidence nor hamper the investigation of the case in any manner whatsoever;*

*(c) 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*

*(d) He shall not leave the territory of India without prior permission of the Court.”*

**8.** 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 application 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 trial of the case. It is further clarified that in case the petitioner does not comply 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 bail. The petition stands disposed in above terms. *Dasti*  
copy.

**(Ajay Mohan Goel)**  
**Judge**

**December 11, 2020**  
*(bhupender)*

High Court of H.P.