

CNR No.HRPK-01-004248-2022  
Case No.BA/1431/2022  
BA 1431 Surender Kumar Yadav Vs State of Haryana  
-1-

**IN THE COURT OF SH.PRAVEEN KUMAR LAL,  
SPECIAL JUDGE/ ADDITIONAL SESSIONS  
JUDGE, PANCHKULA. (UID NO.0151)**

**CNR No.**

**HRPK010042482022**



**Case No. BA/1431/2022**

**Filing No./Date : 2371/16-11-2022**

**Registered on : 16-11-2022**

**Decided on : 19-11-2022**

Surender Kumar Yadav, aged about 63 years, son of late Shri Ram Chandra Yadav, resident of #19 A, Ayodhya Puri, Kodariya, Mhow, Indore, Madhya Pradesh.

...Petitioner.

Versus

State of Haryana through Station House Officer, Sector 20, Panchkula.

..Respondent

Bail application under section 439 Cr.P.C. for grant of bail to the petitioner-accused.

FIR No.184 dated 19.09.2022

U/s 8 of The Protection of Children from Sexual Offences Act, 2012.

Police Station Sector 20, Panchkula.

**Case Argued by:-**

Shri Sameer Sethi, Advocate for the petitioner-accused.

Shri Romil Lamba, Public Prosecutor for State-respondent.

**ORDER**

The petitioner-accused has filed an application for grant of regular bail under section 439 Cr.P.C. in the above noted case FIR.

2. Brief facts of the case are that the complainant R- (mother of prosecutrix) made a complaint to the police alleging therein that she is resident of Sector 20, Panchkula and her daughter T- (name withheld)

(Praveen Kumar Lal),  
Special Judge/ASJ.  
Panchkula/ 19.11.2022.

aged 9 years had gone for tuition but when she returned from tuition she was frightened. On asking, the victim disclosed that *nanu* i.e. father of tuition teacher had first kissed and licked victim's cheeks and thereafter kissed on her lips. Victim objected bad touching, however, the accused by touching her feet said that he has a wish to see her private part and asked to lift her dress. Due to fear her daughter fled away to her home. A request was made to take action against the culprit.

On the basis of said complaint, the present case FIR bearing No.184 dated 19.09.2022 has been registered under section 8 of POCSO Act against the petitioner-accused. The matter was investigated. Statement of victim was got recorded under section 164 Cr.P.C and she was also got medico legally examined at General Hospital, Sector 6, Panchkula. Petitioner-accused Surender was interrogated and arrested. During interrogation, he suffered disclosure statement and demarcated the place of occurrence. Petitioner-accused was also got physically medico legally examined. Now the petitioner-accused has filed the present application for grant of regular bail.

3. Notice of the bail application was given to the State. Reply to the bail application filed.

4. Learned counsel for the petitioner-accused as well learned Public Prosecutor for the State have been heard and this court perused the record of the case file carefully.

5. Learned counsel for the petitioner-accused has submitted that the petitioner-accused has been falsely implicated in the above mentioned case FIR, whereas, he has no relation with the commission of offence. The petitioner-accused has no previous criminal background. The petitioner-accused was arrested by the police on 19.09.2022 and since then he is confined in Central Jail, Ambala. It is submitted that the daughter of the petitioner-accused was giving tuitions to small children studying in classes UKG to 5<sup>th</sup> Class at her abovesaid rented accommodation. Due to the internal politics of the society, the petitioner-accused has been falsely implicated in the present case which is apparent from the facts that at the time of the alleged incident there were 12 children present who had come for tuition and it is not imaginable that any act as alleged could have been done by the petitioner-accused who is a senior citizen aged about 63 years in presence of other 11 children. Moreover, at the time of alleged incident the maternal grandson of the petitioner-accused was also present and his wife and daughter were also present. There was a female helper (maid) also present at that time. Moreover, there is a CCTV footage available which is being attached with the present application for kind perusal of this court. Moment of the victim is quite normal and does not depict show haphazardness or anxiety on her part. It is further submitted that the investigation of the police is complete and even from the statements of the witnesses

including the various parents of other students, the daughter of the petitioner-accused and other witnesses, the false implication of the petitioner-accused is apparent. Moreover, the rented accommodation of the daughter of the petitioner-accused consist of 3BHK single floor with one bedroom being used as a store, the children were taught in hall and the room facing the hall. During tuition period, it was not possible for the petitioner-accused to remain in insolation with the victim away from the sight of other children and his wife, daughter and his maternal grandson and it is not believable that the alleged offence will be committed by an old person in presence of so many people. It is submitted that the petitioner-accused being old man and senior citizen is suffering from various diseases such as Hypertension, diabetes, back nerve problem etc. The health of the petitioner-accused drastically deteriorated in last two months while remaining in prison. The petitioner-accused undertakes to abide by all the terms and conditions to be imposed by this court while granting bail. The trial is likely to take very long time and no useful purpose will be served by keeping the petitioner-accused behind bars. With these submission, learned counsel for the petitioner-accused prayed for grant of bail to the petitioner-accused. Learned counsel for the petitioner-accused placed reliance on **Mr. Ravinder Singh Verma Vs State**, Law Finder ID #1675830; **Inderjeet @ Kamal Vs State of Haryana**, Law Finder ID #748370 and

**Krishna Vs State of Punjab**, Law Finder ID #2024956.

6. On the other hand, learned Public Prosecutor vehemently opposed the contentions of learned counsel for the petitioner-accused and submitted that the offences committed by the petitioner-accused are serious in nature. The petitioner-accused has been arrested by the police on 19.09.2022. During interrogation, the petitioner-accused suffered his disclosure statement and demarcated the place of occurrence. Challan in the present case has been presented on 14.11.2022 and the trial is yet to be commenced. It is also submitted that if the petitioner-accused is admitted to bail, he may influence the witnesses, therefore, the petitioner-accused is not entitled to concession of bail.

7. After hearing the respective submissions of both the sides, this court perused the record. The offences of the present case are serious in nature allegedly committed against the minor girl child. As per reply, there are specific allegations against the petitioner-accused in respect to sexual assault upon the victim. The submissions advanced by petitioner is not tenable at this stage being on merit of the case of prosecution. It is noticed by this court that after due investigation, the police submitted the final report under section 173 Cr.P.C. against the petitioner-accused qua committing the offence punishable under section 8 of the POCSO Act and punishment provided for the same is with imprisonment of either description for a term which shall not be less than three years but which

may extend to five years, and shall also be liable to fine. Merely due to the reason, the investigation has been completed, the petitioner-accused cannot be granted the concession of bail. At this stage, the plea of false implication of the petitioner-accused cannot be accepted merely on the basis of averments in the bail application. This court is completely convinced with the submissions raised by learned Public Prosecutor that the petitioner-accused may misuse the concession of bail by influencing the witnesses of the prosecution. Case laws cited by learned counsel for the petitioner though not disputed but are not applicable to the facts of the present case.

8. Keeping in view the above noted facts and circumstances and keeping in view the seriousness of the commission of offence, this court finds no justification in granting bail to the petitioner at this stage. Hence, the **bail application of the petitioner is hereby dismissed**. Nothing observed in this order shall be construed as an expression on merits of the case in any manner. File be consigned to record room after due compliance.

Pronounced in open Court.  
Dated: 19.11.2022.  
(Satish)

(Praveen Kumar Lal),  
Special Judge/Additional Sessions Judge,  
Panchkula.UID No. HR-0151

Note:All the six pages of this order have been checked and signed by me.

(Praveen Kumar Lal),  
Special Judge/Additional Sessions Judge,  
Panchkula.

(Praveen Kumar Lal),  
Special Judge/ASJ.  
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-7-

**Argued by:-**Shri Sameer Sethi, Advocate for the petitioner-accused.  
Shri Romil Lamba, Public Prosecutor for State-respondent.

Order pronounced. Vide separate order of even date, the present bail application has been dismissed. File be consigned to record room after due compliance.

Pronounced in open Court.

Dated: 19.11.2022.

(Satish)

(Praveen Kumar Lal),  
Special Judge/Additional Sessions Judge,  
Panchkula.UID No. HR-0151

(Praveen Kumar Lal),  
Special Judge/ASJ.  
Panchkula/ 19.11.2022.