

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

Criminal Misc.No.M-29414 of 2015

Date of Decision: September 04, 2015

Dilbag

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE NARESH KUMAR SANGHI

Present: Mr.Vikas Bhardwaj, Advocate,
for the petitioner.

Mr.Kuldeep Tiwari, Addl.AG, Haryana.

Naresh Kumar Sanghi, J.(Oral)

Prayer in this petition, filed under Section 439, Cr.P.C., is for grant of regular bail to the petitioner, Dilbag, who has been booked for having committed the offences punishable under Sections 363, 366-A and 376, IPC, and Section 4 of the Protection of Children from the Sexual Offences Act, 2012, in a case arising out of FIR No.255, dated 08.03.2015, registered at Police Station, City, Panipat.

Learned counsel contends that the prosecutrix (name concealed) had left her parental house with her sweet will and came to village Faridpur, District Panipat, and thereafter, on her insistence, the petitioner and the prosecutrix presented a joint petition bearing CRM-M-9487 of 2015 before this Court seeking protection of their lives and liberty. During investigation, the prosecutrix had suffered statement, in terms of Section 164,

Cr.P.C., before learned Area Judicial Magistrate wherein, it was specifically deposed by her that she had left the house of her parents with her own will and went to village Faridpur; during investigation, on account of pressure put up by the informant-side, a false and frivolous statement of the prosecutrix, in terms of Section 161, Cr.P.C., was recorded in which it was alleged that the petitioner had committed rape upon her; the petitioner is less than 21 years of age and is behind the bars from May, 2015; after completion of the investigation, the charge-sheet (report under Section 173, Cr.P.C.) has been presented before learned Area Judicial Magistrate, therefore, his further incarceration would not be of any worth.

Learned counsel for the State, on instructions from ASI Naresh Kumar, Police Station, City, Panipat, has not controverted the factual aspects narrated by learned counsel for the petitioner. However, he submits that during investigation, the prosecutrix, in her statement under Section 161, Cr.P.C., alleged that the petitioner had committed rape on her. He further submits that as per the evidence collected during investigation, the prosecutrix is less than 16 years of age.

I have heard learned counsel for the parties and with their able assistance gone through the material available on record.

Applicability of Section 376, IPC, in view the facts and circumstances of the case narrated hereinabove, would be a

moot point during trial. It is the version of the prosecution that in her statement under Section 164, Cr.P.C., prosecutrix deposed that she herself left her parental house and went to village Faridpur and thereafter, came before this Court and filed a joint petition with the petitioner seeking protection to their lives and liberty.

Without discussing much on the merits of the case, the present petition is allowed. Petitioner-Dilbag, s/o Zile Singh, r/o village Faridpur, District Panipat, is directed to be released during pendency of trial of the present case, subject to his furnishing bail bond to the satisfaction of learned Chief Judicial Magistrate/Duty Magistrate, Panipat.

September 04, 2015
seema

(Naresh Kumar Sanghi)
Judge

