

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

CRM-M No.51434 of 2018

Date of decision: 28th November, 2018

Sachin

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. Abhishek Sindhwani, Advocate for the petitioner.

Mr. Baljinder S. Virk, Dy. Advocate General, Haryana
for the respondent/State.

Mr. K.L. Saini, Advocate for the complainant.

FATEH DEEP SINGH, J. (ORAL)

Allegations against the petitioner Sachin in this first regular bail application under Section 439 Cr.P.C. in case bearing FIR No.461 dated 27.08.2018 registered at Police Station City Jind under Sections 363, 366-A, 365, 34 IPC and Section 4 of the Protection of Children from Sexual Offences Act, 2012, are as follows:-

The present case was got registered by the father of a girl then aged, at the time of occurrence i.e. 26.08.2018, to be 17 years 10 months and 2 days, whereby he lodged a missing report that his daughter went missing from the home and subsequently on 31.08.2018 the girl was recovered and on 01.09.2018 she refused to undergo medico-legal examination and subsequently was again medico-legally examined on 25.10.2018 and during this period, her first statement under Section 164 Cr.P.C. was recorded on 01.09.2018, whereby she exonerated the

petitioner and subsequent statement on 21.09.2018 implicating the accused and upon which the accused had been arrested.

Learned counsel for the petitioner Mr. Abhishek Sindhwani, Advocate inter alia contends that it was the own voluntary act of the prosecutrix of having left the home on her own sweet will and her initial statement under Section 164 Cr.P.C. is suggestive of the same and throughout the investigations she has been changing her stance, and therefore, her story and that of the prosecution is not credible to be accepted and that the petitioner is behind bars for more than two months.

On behalf of the State Mr. Baljinder Singh Virk, Deputy Advocate General, Haryana assisted by Mr.K.L. Saini, Advocate representing the complainant, have sought to oppose the grant of bail to the petitioner on the grounds of heinousness of the offence and seriousness of allegations contending that being an offence in respect of the victim, who is a minor girl, the petitioner is not entitled to any relief.

Appreciating the submissions of the two sides, it is the own stand of the prosecution initially before the police at the time of registration of the FIR on 27.08.2018 got lodged by the father of the girl that the girl on her own has went missing. Consequent upon her recovery on 31.08.2018, she has refused to undergo her medico-legal examination on 01.09.2018 and as is the medico-legal report placed on the record by the learned State counsel conducted on 25.10.2018, there is no significance established on the same to corroborate the allegations of the

prosecution, besides the fact that in her first statement on 01.09.2018 under Section 164 Cr.P.C. she has not levelled any insinuation against the petitioner and has rather shown her own free will in accompanying the petitioner to different places in the country including Haridwar and has subsequently reverted in her second stand recorded on 21.09.2018 whereby she has levelled insinuations against the petitioner. From this stand of the prosecutrix, who apparently as on date is 18 years old, a debatable issue arises over the very veracity of the prosecution story. Even the medical evidence does not support the allegations of the prosecution. The petitioner is behind bars since a long time. The investigations and trial will take a long time to conclude. In view thereof, this Court is of the opinion that no useful purpose will be served by keeping the petitioner in custody in the present case. Accordingly, he is ordered to be released on regular bail to the satisfaction of Chief Judicial Magistrate/Duty Magistrate, Jind. However, it is made clear that anything observed herein shall not be construed as an expression on the merits of the case.

The petition stands disposed off accordingly.

(FATEH DEEP SINGH)
JUDGE

November 28, 2018

rps

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No