

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Criminal Misc. No. M-24869 of 2019 (O&M)
Date of decision : November 07, 2019

SurajmalPetitioner

versus

State of HaryanaRespondent

Coram: Hon'ble Mr. Justice Fateh Deep Singh

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

Mr. Baljinder Virk, DAG, Haryana for the State

Fateh Deep Singh, J. (Oral)

Petitioner-accused Surajmal a lad of 21 years who is in custody has moved this first bail application under Section 439 Cr.P.C. in case FIR No. 986 dated 15.12.2018 under Sections 363,366-A IPC and Section 4 of POCSO Act, 2012, registered at Police Station Sadar Palwal.

The facts detailed are that complainant Sher Singh father of minor girl aged 14 years alleged that on 13.12.2018 around 11.30 AM, his daughter was enticed and taken away by the accused-petitioner leading to the registration of the present case. Upon

recovery of the girl on 26.12.2018, her statement under Section 164 Cr.P.C. was recorded.

Learned counsel for the petitioner inter-alia contends that the petitioner is in custody for more than ten months and ten days and that the girl in her initial statement under Section 164 Cr.P.C. has not supported the prosecution version and subsequently after 15 days under pressure and coercion her second statement under Section 164 Cr.P.C. was recorded which led to allegations of having cropped up against the petitioner and that there is no medical evidence to support the case of the prosecution.

Learned State counsel Mr. Baljinder Virk, DAG, Haryana have opposed the grant of the relief on the grounds that the minor girl has been enticed and taken away by the petitioner and defiled and therefore, is not entitled to any relief.

Going through the submissions, two statements under Section 164 Cr.P.C. of the victim have come about which are contradictory to each other and belatedly after 15 days the allegations by the victim have come about. The FIR apparently is based on hear-say. To the specific query of the Court, learned counsel for the petitioner could not bring about any corroborative medical evidence to establish the offence of defilement of the minor

girl. Thus, a debatable issue has arisen over the applicability of Section 4 of the POSCO Act which is subject to trial. The petitioner is behind the bars since a long time. No useful purpose will be served by retaining the petitioner in jail. Accordingly, he is ordered to be released on regular bail to the satisfaction of learned Chief Judicial Magistrate/Duty Magistrate, Palwal.

The present petition stands disposed off accordingly.

The observations made herein above shall have no bearing on the merits of the case as these are purely for the disposal of the present bail application.

November 07, 2019
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(Fateh Deep Singh)
Judge

Whether speaking/reasoned ?
Whether Reportable ?

Yes/No
Yes/No