

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Criminal Misc.-M-15194 of 2020 (O&M)
Date of Decision: December 22, 2020

Sourabh Kumar

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Karan Singh, Advocate,
for the petitioner.

Mr. Kanwar Sanjiv Kumar, AAG, Haryana.

MANOJ BAJAJ, J. (Oral)

CRM-31227-2020

Application allowed. Documents are taken on record.

CRM-M-15194-2020

Petitioner has filed this petition under Section 439 Cr.P.C. for grant of regular bail, pending trial in case FIR No.15 dated 30.01.2020, under Sections 365, 328, 342, 341, 506, 120-B IPC, 1860, Sections 10, 17 Protection of Children from Sexual Offenders Act, 2012 and Section 3(1) SC/ST Act, 1989, registered at Police Station, Women, Yamuna Nagar, District Yamuna Nagar. The petitioner is in custody since his arrest on 31.01.2020.

The above FIR was registered on the complaint made by Balinder, wherein it was alleged that he has three daughters and one son.

His daughter Anu aged 15 years was studying in 10th standard in Government High School Saushali. On 13.01.2020 at about 8.30 a.m., she had gone from the house for school. Sourabh son of Rulda Ram was standing near Nimantran Palace on his motorcycle, who told his daughter on the way while she was going to school that he is in love with her and forcibly made his daughter to sit on his motorcycle and took her in village Daurang in the house of his friend Balram and kept there upto 1.00 p.m. And thereafter took his daughter to Kurukshetra and kept her for two days. Sourabh gave intoxicating substance to his daughter and teased her and also touched her private parts. When his daughter gained consciousness, she insisted to go her home and then he left his daughter on the Sausali and while going, he also threatened to kill her.

Learned counsel for the petitioner contends that the victim, namely, Anu has been examined as a witness by prosecution as PW-1, but she has not supported the prosecution case. He has invited the attention of the Court to the said statement (Annexure P-5) and a perusal of the same shows that the witness was declared hostile. As per her testimony, even the statement under Section 164 Cr.P.C. was made by her under pressure. Learned counsel has further pointed out that even as per the said statement under Section 164 Cr.P.C. (Annexure P-3), the victim was not physically violated. According to him, the trial will take considerable time to conclude, therefore, he prays for regular bail.

On the other hand, the prayer is opposed by the learned State counsel, who is instructed by ASI Mukesh Kumari. However, it is not disputed by him that the victim has been declared as a hostile witness and still twelve witnesses remain to be examined on behalf of the prosecution.

Considering the above background, custody of the petitioner and the fact that the trial will take long time to conclude in the wake of outbreak of pandemic COVID-19 in the region, this Court does not find any reason to decline the prayer. The petitioner is presently confined in judicial custody since 31.01.2020 and his further detention may not be necessary for any useful purpose.

Resultantly, without meaning any expression of opinion on the merits of the case, the petition is allowed and it is ordered that the petitioner be released on regular bail, subject to his furnishing requisite bail bonds/surety bonds to the satisfaction of the trial Court/Duty Magistrate, Yamuna Nagar.

December 22, 2020
ramesh

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned
Whether Reportable:

Yes/No
Yes/No