

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

CRM-M-18141-2020
Date of decision: 18.11.2020

Bhim Singh

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. S. K. Yadav, Advocate
for the petitioner.

Mr. Deepak Kumar Grewal, DAG, Haryana.

ARVIND SINGH SANGWAN, J. (Oral)

This petition has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR No. 429 dated 03.09.2019, registered under Sections 363/366-A/343/506/376(D) of the IPC and Sections 4 and 17 of the POCSO Act, 2012 at Police Station Mahendergarh, District Mahendergarh.

Learned counsel for the petitioner submits that as per the allegations in the FIR, registered at the instance of complainant Shiv Kumar, his daughter (name withheld) was enticed away by some unknown person. Later on, during investigation, the police nominated the petitioner along with one Mandeep as accused after the statement of victim and her father was recorded under Section 164 Cr.P.C.

Learned counsel further submits that petitioner is in judicial custody since 06.12.2019.

Vide order dated 28.07.2020, noticing the fact that victim and

her father had given affidavits (Annexures P-2 & P-3) showing the age of victim as 19 years, the trial Court was directed to record the statement of victim and her father/complainant.

Learned counsel for the petitioner has placed on record the copies of the statement of the victim and her father, wherein the victim, appearing as PW-1, has stated that her date of birth is 07.07.2001 and on 02.09.2019, she was upset and left her house and went to the house of her friend Sunita without informing her family. It is further stated by her that nothing wrong happened with her and no one took her forcibly and no wrong was committed by anyone. She has further stated that she has seen the accused through video conferencing and they did not commit any wrong or rape with her. In response to a query put by the public prosecutor, regarding her statement given under Section 164 Cr.P.C., she has stated that it was made under the influence of the police. This witness was declared hostile and she even denied having made any statement to the police regarding allegations against petitioner Bhim Singh and co-accused Mandeep. In the cross-examination by the defence counsel, the victim stated that she is a married woman and did not know accused persons, who never committed any rape upon her.

The complainant/father of the victim, in his statement as PW-2, has stated that petitioner Bhim Singh and Mandeep have not enticed away his daughter in order to commit rape upon her. This witness was also declared hostile and during cross-examination by the public prosecutor, he even denied having made any statement before the police.

Learned counsel for the petitioner further submits that in view

of the aforesaid statement made by the victim as well as her father and also in view of the affidavits (Annexure P-2 & P-3), given by both of them, no case is made out against the petitioner and there is no possibility of his conviction, therefore, the petitioner may be enlarged on regular bail.

Learned State counsel could not dispute the factual position.

I have heard learned counsel for the parties.

Without commenting upon the merits of the case, considering the fact that petitioner is in judicial custody since 06.12.2019 and the victim and her father/complainant have not supported the version of the prosecution, the instant petition is allowed. The petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate/Illaqa Magistrate, concerned.

18.11.2020

Waseem Ansari

**(ARVIND SINGH SANGWAN)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No