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

**CRM-M-22110-2020
Date of Decision: 18.08.2020**

Rani @ Yasmin

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE SUDIP AHLUWALIA

Present: Mr. Suresh Ahlawat, Advocate,
for the petitioner.

Mr. Gagandeep S. Chhina, AAG, Haryana.

SUDIP AHLUWALIA, J. (ORAL)

This is the second petition filed under Section 439 of the Code of Criminal Procedure by the petitioner, seeking regular bail in case FIR No.379 dated 07.09.2018, under Section 120-B of the IPC and Section 4 of the POCSO Act, registered at Police Station Badshahpur, District Gurugram.

2. Ld. Counsel for the petitioner has sent through e-mail today a copy of the deposition of the Victim 'R' recorded in the Ld. Trial Court on 14.08.2020; Be kept on record.

3. Perusal of the same goes to reveal that the victim did not make any incriminating statement against the petitioner/accused and was in fact declared a hostile by the prosecution even in presence of her maternal grand mother, who was permitted to remain present in the Court in view of the

submission that the prosecutrix would feel more comfortable in her presence.

4. It may be mentioned that the deposition of the prosecutrix in the case has been got recorded with great effort, after the previous bail petition of the petitioner (CRM-M-13311-2020) was disposed off on 10.06.2020, with the following observations:

“It has been contended on behalf of the Petitioner that she has remained in detention for a long time since 16th September, 2019 and that trial in the case is likely to take long time considering the subsequent incidence of Corona Virus Disease.

2. The allegations against the Petitioner of having been a party to sexual exploitation of the minor girl, who is her own maternal niece, by several persons is very grievous.

3. In such circumstances, this Court is not inclined to release the petitioner at this stage simply on the ground of her prolonged detention.

4. The next date in the Ld. Trial Court is, reported to be fixed for prosecution evidence, on the 28th of July.

5. As such, the present Petition is disposed off by rejecting the prayer for bail at this stage but with a direction upon the Ld. Trial Court to endeavour to record the evidence of at least the prosecutrix/victim girl on the next date, already fixed. In the event of evidence of said victim girl not being recorded for any reason not attributable to the Petitioner or defence side, the Petitioner would be at a liberty to approach this Court again for appropriate relief.”

5. In spite of that, the deposition of the prosecutrix could not be recorded as she was not produced before the Ld. Trial Court, in spite of the date fixed, i.e. 04.08.2020.

6. After this, this Court itself deferred further hearing in the present matter for today.

7. Now, the deposition recorded in the interregnum has virtually given a clean chit to the petitioner inasmuch as the prosecutrix herself has been declared hostile by the Public Prosecutor appearing on behalf of the State.

8. In such circumstances, further detention of the petitioner, who has already remained in prison for almost a year, since 16.09.2019, is not called for.

9. As such, without commenting any further on the merits of the present case as a whole and in view of the fact that the trial is likely to take its own substantial time to complete on account of the ongoing COVID-19 Pandemic, the prayer of the petitioner for regular bail is allowed and she is ordered to be released on regular bail, subject to the appropriate terms and conditions to the satisfaction of the Ld. Trial Court/Duty Magistrate, concerned.

10. Disposed off.

18.08.2020

Apurva

**(SUDIP AHLUWALIA)
JUDGE**

1. Whether speaking/reasoned: Yes/No

2. Whether reportable: Yes/No