

CRM-M-22834-2020(O&M)
Date of Order:21.08.2020

Shravan

..Petitioner

Versus

State of Haryana

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

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

Mr. Chetan Sharma, AAG, Haryana

ANIL KSHETARPAL, J(Oral)

Present petition has been filed by the petitioner, namely, Shravan, under Section 439 Cr.P.C. for grant of regular bail in FIR No.1358, dated 10.12.2019, registered under Section 365 IPC (Section 363/366-A/323/342/376(c) IPC, Section 6 of POCSO Act, 2012 and Section 3(w)(1)/3(2)(v)(va) of the SC/ST Act added lateron), at Police Station Thanesar City, District Kurukshetra.

In a nutshell, the case of the prosecution has been noticed by the learned Additional Sessions Judge, Fast Track Special Court, Kurukshetra, in paragraph 3, which is extracted as under:-

“3.Briefly stated, as per the facts in the FIR and the reply submitted by the Investigating Officer, as per the complainant, her daughter/victim ‘K’, aged about 15 years was kidnapped on 31.10.2019 at about 11:00 and they were enquiring the matter of their own. Then on 22.11.2019 her father-in-law received a phone call, made by Mahesha son of Jeetu, resident of Ebli, District Karnal. He threatened for compromising the matter otherwise the girl will not be released. She also stated that her daughter/victim ‘K’, aged about 15 years was kidnapped also on 06.06.2019 and then she was recovered from Balvinder etc. A case under Sections 363, 366A, 365, 376/3, 34 IPC, 6, 16 of POCSO Act was registered in Police Station City Thanesar. The other accused and family members of accused Balwinder are now putting pressure upon them

for compromise the matter. On 31.10.2019 the abovesaid case was fixed before the Court and her father-in-law was present in Court complex. Her daughter 'K', at about 10:00 A.M, as usually left the house for sewing centre but she did not reach there and was kidnapped on the way. They searched her. On 22.11.2019 the complainant received a phone call being made by Mahesha for compromising the matter and if they will not compromise the matter, the victim will not be released. Her daughter was kidnapped by the relatives of the accused persons and they are putting pressure upon them for compromise the matter. The complainant also received a phone call made by a lady and she told about the same to her son. The phone call was made by one Sonia, who stated that she is talking from Sector 8, Karnal. Their daughter is with them and kept in a room. After one hour another phone call from Sonia was received and she got talked victim 'K' to Gaurav, son of the complainant. The victim was crying and was asking for help. The victim could be in the custody of Mahesha, as he also made phone calls to the mobile phone of father-in law of the complainant. There is apprehension of killing of the victim by the accused persons. Thus, it was prayed that necessary legal action in the matter be taken."

Learned counsel for the petitioner contends that the petitioner is not named in the FIR and even as per the statement of the prosecutrix recorded under Section 164 Cr.P.C, the petitioner has solemnized marriage with her at his house. He further contends that the petitioner and the prosecutrix were in long relationship .

On the other hand, learned counsel for the State has submitted that there is no evidence of the marriage between the petitioner and the prosecutrix. He further points out that the prosecutrix was below the age of 15 years at the time of incident.

This court has considered the submissions.

It is not disputed that an another FIR No.498 dated 06.06.2019 has been lodged against Balwinder alleging that the prosecutrix has been kidnapped by him.

The petitioner is in custody since 25.12.2019. As per the information given by the learned counsel for the State, on instructions from SI Bhupinder Singh, the petitioner is not involved in any other criminal case.

Although, the prosecution has started recording its evidence, however, still the statements of 13 prosecution witnesses remains to be recorded. Hence, the conclusion of the trial would take time.

Without commenting on the merits of the case and keeping in view the fact that the petitioner is in custody since 25.12.2019 and conclusion of the trial is likely to take time, the petitioner is directed to be released on regular bail subject to furnishing of adequate surety to the satisfaction of the Chief Judicial Magistrate/Duty Magistrate, concerned.

Accordingly, the present petition is allowed with the aforesaid directions.

August 21, 2020
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned
Whether reportable

: Yes/No
: Yes/No