

228.

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

CRM-M-32884-2020

Date of decision: 27.10.2020

MANOJ

... Petitioner

versus

STATE OF HARYANA AND OTHERS

.... Respondents

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr. Parveen Sharma, Advocate,
for the petitioner.

Mr. Pardeep Parkash Chahar, DAG, Haryana.

Mr. Vishal Goel, Advocate,
for the complainant.

HARI PAL VERMA, J.(Oral)

The matter has been taken up for hearing through video conferencing due to outbreak of COVID-19.

Prayer in the present petition filed under Section 439 Cr.P.C. is for grant of regular bail to the petitioner, pending trial, in case FIR No.370 dated 23.08.2019, under Section 365 of IPC (Sections 363, 366A of IPC and Section 6 of POCSO Act added lateron) registered at Police Station Butana, District Karnal.

Counsel for the petitioner has referred to the statement of the victim-prosecutrix recorded under Section 164 Cr.P.C, dated 03.09.2019 wherein she has stated that she has gone with the petitioner at her own will and nothing forcible was committed with her. She do not want to go with

her parents as they used to beat her. He has stated that the prosecutrix while appearing as PW4 has not supported the case of the prosecution and rather declared hostile. Petitioner is in custody since 06.09.2019. He further states that since the prosecutrix has not supported the case and declared hostile, there are very remote chances of conviction of the petitioner. There is no medical evidence that she was ever subjected to sexual assault.

Learned State counsel submits that no doubt in the statement recorded under Section 164 Cr.P.C., the victim has stated that nothing forcible was committed with her and she has gone with the petitioner with her own will but in her separate statement recorded under Section 161 Cr.P.C., she has made allegations that the petitioner has developed physical relations with her three times in the room with her consent. The prosecutrix being minor, petitioner is not entitled to get the concession of bail.

I have heard learned counsel for the parties.

In her statement recorded under Section 164 Cr.P.C. as well as while appearing as PW4, the prosecutrix has not supported the case of the prosecution. In this manner, it is only during the trial, culpability of the petitioner would be established. Moreover, there is no medical evidence so as to establish that the victim was ever subjected to sexual assault by the petitioner. Thus, this Court deems it appropriate to admit the petitioner on bail.

Accordingly, the present petition is allowed and the petitioner is admitted on regular bail subject to his furnishing bail bonds/surety bonds to the satisfaction of trial Court/Duty Magistrate.

The observations made hereinabove shall not be construed as an expression on the merits of the case and the trial court shall decide the case on the basis of available material.

(HARI PAL VERMA)
JUDGE

27.10.2020
sanjeev

Whether speaking/reasoned?	Yes/No
Whether reportable?	Yes/No