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

**CRM-M No.24581 of 2021
Date of Decision: 13.07.2021**

ROCKY THAPA

.....Petitioner

Vs

UT OF CHANDIGARH

.....Respondent

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Mr. Nikhil Batta, Advocate
for the petitioner.

Mr. Ashu Mohan Punchhi, PP UT, Chandigarh with
Mr. Anupam Bansal, APP UT Chandigarh
for respondent/UT Chandigarh.

RAJ MOHAN SINGH, J.(Oral)

The case has been taken up for hearing through video conferencing.

Petitioner seeks grant of regular bail under Section 439 Cr.P.C in case bearing FIR No.145 dated 26.07.2020, registered under Sections 3, 4, 5, 6 and 7 of Immoral Traffic (Prevention) Act at P.S. Sector 36, Chandigarh.

Petitioner is serving in some government department.
The case was registered on the complaint of complainant Ms. Neha Yadav, ASP South, Chandigarh with the allegations

that on 25.08.2020, she along with police party was on checking duty in village Kajheri, Sector 52 Chandigarh. A secret information was received that Supinder Singh (owner of Hotel Moon Light), Gourav Sharma, Ritik Sharma, Jobanjeet Singh (Manager of Hotel) a lady namely Neelam and some other persons are running business of flesh trade by supplying girls for prostitution and they used to earn money by unfair means. Petitioner, Rajesh Kumar and Rahul are shown to be pimps for this business. A raid was conducted wherein Constable Sandeep Kumar was deputed as bogus customer and 10 notes of the denomination of Rs.500/- total Rs.5000/- were given to him by making marks of tainted money. During raid, 10 girls were rescued. The currency notes of denomination of Rs.500/- amounting to Rs.5000/- were also recovered from the petitioner and other co-accused. With this background, the case was registered.

Learned counsel for the petitioner submitted that other co-accused namely Neelam Kaur, Jobanjeet Singh, Ritik Sharma, Gourav Sharma and Rajesh Kumar have already been enlarged on regular bail by the High Court in different petitions. Challan has already been presented even by treating the petitioner to be an adult. Challan is silent about the offence under Section 376 IPC and offence under Section POCSO Act.

Petitioner is in custody since 26.07.2020.

Learned Public Prosecutor for the respondent/UT Chadigarh however opposed the bail on the ground that the petitioner himself claims to be a juvenile and his juvenility has not been determined so far. In such eventuality, petitioner has remedy under Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2015 and his juvenility would be determined before the Principal Magistrate, Juvenile Justice Board and the petition under Section 439 Cr.P.C. cannot be entertained.

Having heard learned counsel for the parties, since the prosecution itself has filed challan against the petitioner by treating him to be an adult, therefore, the question of his juvenility cannot be commented upon at this stage. The complicity of the petitioner would be treated on parity with other co-accused against whom allegations are at par.

Since the co-accused namely Neelam Kaur, Jobanjeet Singh, Ritik Sharma, Gourav Sharma and Rajesh Kumar have already been enlarged on regular bail and challan has also been filed against the petitioner treating him to be an adult, therefore, keeping in view the circumstances arising out of COVID-19 pandemic, I deem it appropriate to enlarge the

petitioner on regular bail on parity with other co-accused.

In view of above, petition is allowed. Petitioner is ordered to be released on bail, subject to his furnishing heavy bail bonds/surety bonds to the satisfaction of the trial Court/concerned Duty Magistrate.

Nothing expressed hereinabove would be construed to be an expression of opinion on merits of the case.

July 13, 2021
Atik

(RAJ MOHAN SINGH)
JUDGE

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