

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

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**CRM-42566-2021 in/and
CRM-M-24839-2021
Date of decision: 14.12.2021**

Salman

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

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

Ms. Tanushree Gupta, DAG, Haryana
for the respondent-State.

MANJARI NEHRU KAUL, J. (ORAL)

CRM-42566-2021

Prayer in this application is for placing on record copies of order dated 29.09.2021 and statement of the prosecutrix recorded under Section 164 Cr.P.C. as Annexures P-4 and P-5 respectively.

For the reasons mentioned in the application, the same is allowed and the above said documents are taken on record as Annexures P-4 and P-5 subject to all just exceptions.

CRM-M-24839-2021

This is the first petition filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the petitioner in case FIR No.572 dated 16.12.2020 lodged under Sections 212, 363, 366A and 346 IPC, Section 6 of the POCSO Act and Section 3 of the SC/ST Act, registered at Police Station City Jind, District Jind.

Learned counsel for the petitioner submits that the victim was aged more than 17 years on the date of alleged occurrence. Learned

counsel submits that the sequence of events right from the time the victim went missing from her home clearly hinted towards both she and the petitioner being in a relationship. Learned counsel submits that after she went missing on 16.12.2020, the victim's father lodged a missing report wherein he did not level any allegations against anyone much less the petitioner. Learned counsel further submits that during her deposition before the learned trial Court which has been annexed as Annexure P-5, the victim admitted that she had left her house of her own accord. Thereafter, she had met the petitioner at a distance and then both of them had travelled together to various places including Karnal and Kurukshetra. Learned counsel submits that had it been a case where the victim had been forcibly taken away or enticed away by the petitioner as alleged by her in her statement recorded under Section 164 Cr.P.C., she would not have remained quiet during her travel with the petitioner to various places and would have raised some hue and cry, if not on the date when she went missing but at least on the following days when she lived with the petitioner at different places including Kurukshetra, from where she was eventually recovered. In support, learned counsel has also invited the attention of this Court to Annexure P-4 which is an order dated 29.09.2021 of the learned trial Court wherein it stands noticed that the victim had suffered a statement to the effect that she did not want to depose and did not want to live with her parents or any other person from her family, and with a further request that she be sent to a safe house. It has been submitted that since the victim who is the sole material witness already stands examined, further incarceration of the petitioner would not serve any

useful purpose as 22 more prosecution witnesses remain to be examined.

Per contra, learned State counsel while opposing the prayer of the counsel opposite, on instructions from PSI Sonu, has not been able to controvert the factum of the victim having made a statement Annexure P-4, before the trial Court, to the effect that she did not want to live with her parents and rather wanted to go to a safe house. She has also conceded that the victim is the sole material witness in the case in hand. Learned State counsel, however, has submitted that while stepping into the witness box, the victim levelled allegations against the petitioner of enticing her away and thereafter establishing forcible physical relations with her.

I have heard learned counsel for the parties and perused the material on record.

In view of the facts and circumstances as enumerated hereinabove, the victim who is the sole material witness already stands examined, there is no likelihood of the trial concluding in the near future as 22 prosecution witnesses remain to be examined. The petitioner has been in custody since 05.01.2021. The petition is allowed. The petitioner be admitted to bail to the satisfaction of the trial Court/Duty Magistrate concerned. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

14.12.2021

Vinay

(MANJARI NEHRU KAUL)
JUDGE

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