

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

226

CRM-M-35658-2021

Date of Decision: 15.12.2021

Aman

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Ketan Antil, Advocate
for the petitioner.

Ms. Gaganpreet Kaur, AAG, Haryana.

Manjari Nehru Kaul, J.(Oral)

The present petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner, in case FIR No.206 dated 22.06.2021 under Section 84 of Juvenile Justice (Care and Protection of Children) Act, 2015 and Sections 363, 365 and 366 IPC (Sections 363 and 366 IPC added later on and Section 365 IPC deleted later on), registered at Police Station Murthal, District Sonapat.

Learned counsel for the petitioner submits that a missing report was lodged by the mother of the victim wherein she did not level any allegation of wrong doing against any one much less the petitioner. He further submits that the victim was 16½ years of age on the date of occurrence which finds duly reflected in her statement made under Section 164 Cr.P.C. wherein she stated that her date of birth was 08.08.2004.

Learned counsel for the petitioner while drawing attention to the statement recorded under Section 164 Cr.P.C. (Annexure P-3), has contended that a perusal of the same clearly indicated that the victim had not been enticed or lured away by the petitioner and had in fact accompanied him of her own accord. He further submits that though in the said statement, the victim stated that she had travelled with the petitioner to various places and also stayed at the house of the petitioner's aunt, however, therein as well, she did not level any allegation of sexual assault against the petitioner. He further submits that subsequent to her recovery, the victim declined to subject herself to any medical examination. A prayer has, therefore, been made that in the aforementioned facts and circumstances, it left no manner of doubt that a fabricated and false case had been foisted upon the petitioner.

Per contra, learned State counsel, on instructions from ASI Seema, while opposing the prayer made by the counsel opposite, has not been able to dispute the contents of the statement of the prosecutrix recorded under Section 164 Cr.P.C.. She has conceded that the prosecutrix had declined to subject herself to medical examination and hence, there was no medico legal report on record qua the alleged sexual assault carried out on the victim. She further submits that the prosecution evidence is due to commence on 04.01.2022 when the evidence of three prosecution witnesses i.e. Karan, Rajesh and Surinder is likely to be recorded.

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

In the facts and circumstances as enumerated hereinabove and the fact that the petitioner has been in custody since 01.07.2021, the trial is

unlikely to conclude in the near future. The instant petition is allowed. The petitioner is ordered to be released on 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.

(MANJARI NEHRU KAUL)
JUDGE

15.12.2021

D.Bansal

Whether speaking/ reasoned :	Yes/ No
Whether Reportable :	Yes/ No