

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

107+221

**CRM No.31895 of 2021 in/and
CRM-M-36064 of 2021**

Date of Decision: 29.09.2021

Happy @ Sagar

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

(Through Video Conferencing)

Present: Mr. Yogesh Saini, Advocate,
for the applicant-petitioner.

Mr. Gagandeep Singh Chhina, AAG, Haryana.

MANJARI NEHRU KAUL, J.

CRM No.31895 of 2021

The application is allowed as prayed for and statement of the minor daughter Monika (alleged victim) recorded u/s 164 Cr.P.C. is taken on record.

CRM-M-36064 of 2021

The instant petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case FIR No.398, dated 07.07.2021, under Sections 363, 366A, 376(2)(N) and Section 34 IPC, 1860 and Section 6 POCSO Act, 2012 registered at Police Station HTM, Hisar.

Learned counsel for the petitioner submits that the petitioner has been in custody since 09.07.2021 in a case of false implication which finds credence from the fact that in her statement recorded under Section 164 Cr.P.C. the victim categorically stated that no wrong had been committed with her by anyone. He further submits that there was no medical evidence

even to corroborate the allegations of rape. While inviting the attention of this Court to the contents of the FIR which was got registered at the instance of the father of the victim, learned counsel submits that the complainant had only raised a suspicion that his daughter may have been tricked and enticed away by the petitioner.

Per contra, learned State counsel while opposing the prayer for grant of regular bail, on instructions from SI Suresh Pal, has not been able to controvert the submissions made by the learned counsel for the petitioner with respect to the contents of the statement recorded under Section 164 Cr.P.C. He has very fairly admitted that there was no medical evidence on record to corroborate the allegations of rape as the victim had refused to subject herself to medical examination.

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

In the facts and circumstances, the petition is allowed. The petitioner be admitted to bail to the satisfaction of trial Court/Duty Magistrate. 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**

29.09.2021
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Whether speaking/reasoned Yes/No

Whether reportable Yes/No