

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

204+102

CRM-M No.37380 of 2020 (O & M)
Date of decision:31.03.2021

Rohit

... Petitioner

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Vishal Sharma Haritwal, Advocate for the petitioner.

Mr. Rajiv Sidhu, DAG, Haryana.

SUVIR SEHGAL J. (ORAL)

The Court has been convened through video conferencing due to Covid-19 pandemic.

CRM-9893-2021

Application is allowed. Annexures P-A and P-B are taken on record.

Main Case

Petitioner has filed this petition under Section 439 of Cr.P.C. for grant of regular bail in case FIR No.131, dated 30.06.2020 registered under Section 363 IPC, 1860, Sections 6 of POCSO Act, 2012, and 51 (b) of D.M. Act, registered at Police Station Sushant Lok, District Gurugram.

FIR has been registered on 30.06.2020 on the basis of the statement of the mother of the prosecutrix on the allegation that Rohit, present petitioner, had enticed her minor daughter on the pretext of

marriage. On the next day, mother of the prosecutrix appeared before the police with the prosecutrix and the statements under Section 161 and 164 Cr.P.C., Annexures P-3 and P-2 respectively were recorded. The petitioner was arrested on 01.07.2020.

Counsel for the petitioner has placed reliance on the deposition of the prosecutrix, Annexure P-B, to submit that the prosecutrix has stated on oath that the petitioner did not commit any wrong act with her on 29.06.2020 or at any subsequent point of time and on the fateful day, she had gone to visit her relatives without telling her mother. Counsel has also made a reference to the deposition Annexure P-A of the mother of the prosecutrix, wherein she has stated that she did not submit any complaint to the police and her signatures had been obtained on a blank paper on the pretext of completing certain formalities. Still further, she deposed that no wrong act has been committed with her daughter and she returned home on 01.07.2020, on her own after visiting her relatives. Counsel for the petitioner submits that as the prosecutrix and her mother have been declared hostile, the petitioner, who is in incarceration for the last more than 10 months, deserves to be enlarged on bail.

Per contra, learned State counsel upon instructions from ASI Jitender Singh, has opposed the petition. He has made a reference to the statement P-2 to submit that the prosecutrix in her statement under Section 164 Cr.P.C. has specifically stated that she had gone to the petitioner who had physical relations with her. Still further, on instructions, he submits that the doctor gave his opinion in the MLR report and stated that there is a possibility of sexual assault and the

semen detected on the clothes of the prosecutrix has been sent for analysis, but DNA report is awaited.

I have considered the rival submissions of the parties.

Considering that the complainant has not supported the allegations levelled by her in the FIR and the prosecutrix has resiled from her statement recorded under Section 164 Cr.P.C., the period of incarceration of the petitioner, nature of allegations, gravity of offence and the fact that the trial is likely to take time to conclude, no purpose would be served by keeping the petitioner behind bars any further.

Without commenting anything on the merits of the case, the petition is allowed and the petitioner is ordered to be released on bail on furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate.

It is clarified that the observations made hereinabove shall not be construed to be an expression on the merits of the case.

31.03.2021
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(SUVIR SEHGAL)
JUDGE

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No