

Hasan Khan

..... Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. C.M. Munjal, Advocate, for the petitioner.

Mr. Manish Bansal, Deputy Advocate General, Haryana.

Rajesh Bhardwaj, J. (ORAL)

The petitioner has approached this Court praying for regular bail in case FIR No.120 dated 17.8.2018 registered under Sections 363, 366-A IPC and Section 6 of the POCSO Act, 2012 and Section 120-B, 328, 34, 343, 376(2)(n), 376(D), 451, 506 IPC registered at Police Station Nathsari Chopta, District Sirsa.

The FIR has been lodged by the father of the victim, whose date of birth is 15.12.2001 and who went missing since 16.8.2018. He prayed for action against the guilty persons. Thereafter, the investigation commenced and on conclusion of the investigation, the challan was presented against the accused persons.

Learned counsel for the petitioner submits that the petitioner is behind bars since 4.9.2018. He submits that the petitioner was never named in the FIR and has been falsely implicated in the case on the statement of the victim recorded under Section 164 Cr.P.C. He submits that the victim after having been eloped on 16.8.2018, returned back after 25 days. It is evident that they remained at various places in Rajasthan and Karnatka as well. He submits that even if the allegations are assumed to be true, then also this is a case of consent and the petitioner, who is the young boy cannot

be held to be guilty. He further submits that in all there are 9 accused and rest of the co-accused are already on bail. He vehemently submits that as on date the material witnesses have already been examined and the petitioner is suffering incarceration from the last more than three years. Hence, in the over all facts and circumstances, he deserves to be enlarged on bail.

On the other hand, learned State counsel vehemently opposed the submissions made by learned counsel for the petitioner. In pursuance to the last order dated 13.9.2021, status report by way of affidavit of Dharamvir, Deputy Superintendent of Police, HPS, Sirsa has been filed, wherein it has been stated that in case FIR under Section 302 IPC, the petitioner has already stands acquitted and in another case FIR No.36 dated 10.2.2018 under Section 363/366 IPC Police Station Bhirani, District Hanumangarh, cancellation report has been prepared and submitted in the Court concerned and the same has been accepted by the Court.

In the overall facts and circumstances of the case and keeping in view the fact that all the material witnesses have already been examined and the custody period is more than 3 years, I find that learned counsel for the the petitioner has made out a case for grant for regular bail. Accordingly, the present petition is allowed and the petitioner is ordered to be released on bail to the satisfaction of the concerned trial Court/Duty Magistrate. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

(RAJESH BHARDWAJ)
JUDGE

11.10.2021

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