

IN THE HIGH COURT OF PUNJAB AND HARYANA
CHANDIGARH

SANJIV KUMAR SHARMA
2021/01/08 18:10
I attest to the accuracy and
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CRM-M-39048-2020

Date of decision : 7.1.2021

Rahul alias Kala

..... Petitioner (s)

Versus

State of Haryana

..... Respondent (s)

CORAM: HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

Present: Mr. Ashish Sanghi, Advocate
for petitioner.

Mr. Dhruv Sheoran, DAG Haryana.

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HARINDER SINGH SIDHU, J.

The case is taken up through video conferencing on account of COVID 2019.

This is a petition filed under Section 439 Cr.P.C. for grant of bail in case FIR No. 784 dated 5.12.2017, registered under Sections 363, 366 A, 34 IPC (Section 376 IPC and Section 4 POCSO Act, 2012 added later on) at Police Station Samalkha, District Panipat.

FIR was registered on the statement of Bimla Devi wife of Ram Kishan who stated that she has 4 daughters and 2 sons. Her youngest daughter (the victim) who was aged about 17 years went missing since 4.12.2017. They tried to find her but could not. She alleged that Rahul alias Kala (petitioner) had enticed her daughter on the pretext of marrying her. Sanju, Raju, Sandeep and Anil were also involved in alluring her daughter.

It has transpired that after completion of investigation, challan was filed only against petitioner on 30.1.2018. The other accused were exonerated. Charges were framed against petitioner on 12.3.2018 and trial commenced. Thereafter, despite court orders, no prosecution witnesses appeared before trial Court for examination. The Court issuedailable warrants and then nonailable warrants for appearance of prosecution witnesses. For her non-appearance before the Court in response to the summons the Trial Court resorted to summary procedure under Section 350 Cr.P.C and vide order dated 31.1.2019 fine was imposed upon prosecutrix for her non appearance before Court. It is only

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thereafter that she appeared before Court and her examination-in-chief was recorded. In her examination-in-chief besides the petitioner she implicated the other co-accused as well. Thereafter, an application under Section 319 Cr.P.C. was moved by prosecution for summoning other co-accused. The said application was allowed and vide order dated 30.4.2019 the other co-accused were summoned to face trial. They preferred CRR-1707-2019 challenging the said order. This Court vide order dated 22.7.2019 stayed the proceedings before trial Court.

Learned counsel for petitioner has argued that petitioner is in custody since 11.12.2017. The trial of the case has been delayed for reasons not attributable to him. Now the trial has been stayed on the Criminal Revision preferred by the co-accused.

Taking into account the aforesaid facts in my view no useful purpose will be served by detaining petitioner behind bars till the conclusion of the trial. Accordingly the petition is accepted. Petitioner Rahul alias Kala is ordered to be released on bail on his furnishing bail and surety bonds to the satisfaction of trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

(HARINDER SINGH SIDHU)
JUDGE

7.1.2021
sjks

Whether reasoned order : Yes / No

Whether reportable : Yes / No