

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

208

CRM-M-46526-2021
Date of decision:11.11.2021

Gautam

... Petitioner

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Rakesh Kumar Lathwal, Advocate,
Mr. Man Mohit Malik, Advocate and
Mr. Shubham Khokhar, Advocate for the petitioner.

Ms. Deepshikha Chauhan, AAG, Haryana.

SUVIR SEHGAL J. (ORAL)

This is the first petition filed by the petitioner under Section 439 of Cr.P.C. for grant of regular bail in case FIR No.200, dated 07.07.2020 registered for offence under Sections 363, 363-A (Sections 120-B, 328, 34, 354, 376-D of IPC and Sections 4, 6, 10, 17 of Protection of Children from Sexual Offences Act, 2012, were added later on) at Police Station Murthal, District Sonapat, Haryana.

Criminal law was set in motion on a complaint submitted by Pritam Singh, father of the victim, on the allegation that his daughter, who is aged 16 years has been missing since 07.07.2020 and he suspects that Gautam (present petitioner), who is the nephew of Pawan, has enticed her with an assurance to get married.

Counsel for the petitioner has made a detailed reference to the statement of the complainant, mother of the victim and that of the victim, who have been examined as witnesses No.1 to 3 respectively, Annexures P-1 to P-3 to submit that all the three witnesses have in one voice deposed that the accused did not induce their daughter nor did he commit any sexual assault on her. In particular, he has made a reference to the testimony of the victim, who in her examination-in-chief has specifically deposed that on 07.07.2020, she went to her aunt's house as her father had beaten her and came back after four days and that she has seen the accused, namely, Vijay, Sachin @ Yogi, Suraj, Gautam (present petitioner), Mohit and Suraj s/o Satish via video conferencing and that they did not rape her nor did they take her home. Counsel has also made a reference to the orders, Annexures P-4 to P-6, whereby, co-accused have been granted the concession of regular bail. He asserts that the petitioner, who is in custody since 10.07.2020 and has clean antecedents, deserves to be enlarged on bail as both the complainant and the victim have been examined, who have not supported the case of the prosecution.

Per contra, learned State counsel upon instructions from L/SI Babli, has opposed the petition and by making a reference to the statement of the prosecutrix recorded under Section 164 Cr.P.C. as well as the FSL report submits that the victim has been subjected to sexual assault by the co-accused and the petitioner, who played an active role and facilitated the commission of the crime. Upon further instructions, she submits that challan has been presented on 26.08.2020, charge has

been framed on 03.03.2021 and 05 out of 29 prosecution witnesses, which include the material witnesses, have been examined and the next date before the trial court is in January, 2022.

Counsel for the parties have been heard.

After considering the circumstances, this Court is of the view that the complicity of the petitioner in the crime would be a subject matter of debate before the trial court and the petitioner, who is in custody since the last more than 01 year and 03 months would be entitled to be released on bail as the trial is likely to take time to conclude.

Without commenting upon the merits or de-merits of the arguments addressed by the counsel for the parties, the petition is allowed. The petitioner is ordered to be released on bail on furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate concerned.

While being released on bail, the petitioner shall furnish an affidavit to the effect that he will not try to contact the victim or her family members or in any way try to harass them.

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

11.11.2021

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(SUVIR SEHGAL)
JUDGE

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