

CRM-M-50943-2021 (O&M)
Date of decision-13.12.2021

Sachin @ Yogi

...Petitioner

Vs.

State of Haryana

...Respondent

CORAM:- HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Pardeep Panwar, Advocate for the petitioner.

Ms. Deepshikha Chauhan, AAG, Haryana.

SUVIR SEHGAL, J. (ORAL)

Instant petition has been filed under Section 439 of the Code of Criminal Procedure, 1973, seeking grant of regular bail to the petitioner in case FIR No.200, dated 07.07.2020 registered for offence under Sections 363 and 363-A (later on added 120-B, 328, 34, 354, 376-D) of Indian Penal Code, 1860 and Sections 4, 6, 10, 17 (added later on) of Protection of Children from Sexual Offences Act, 2012, at Police Station Murthal, District Sonapat (Haryana).

FIR has been registered on the complaint of Pritam Singh, father of the victim on the allegation that his 16 year old daughter is missing since 07.07.2020 and he suspects that Gautam, who is the nephew of Pawan @ Surti, has enticed her on the assurance of marriage.

Counsel for the petitioner submits that the petitioner is not named in the FIR, though in her statement recorded under Section 164 Cr.P.C., the prosecutrix has falsely alleged that the petitioner tried to commit forcible sexual assault on her and forced her to take liquor. By making a reference to the statements of the complainant and his wife, Annexures P-1 and P-2 as well as that of the victim, Annexure P-3, counsel submits that all the three witnesses have specifically stated that they have seen the accused/petitioner through VC and he did not rape her nor did he take her from her house. He further submits that the prosecutrix in her examination-in-chief has specifically stated that she had gone to her aunt's house as her father had beaten her. He submits that all the three witnesses were declared hostile on the request of the Public Prosecutor. Reliance has been placed by the counsel upon orders, Annexures P-4, P-7 as well as order dated 29.11.2021, whereby co-accused Suraj, Gautam and Vijay have been released on bail pending trial by this Court. He submits that the petitioner, who is in custody since 20.07.2020 deserves to be released on bail.

Per contra, learned State counsel upon instructions from ASI Seema, has placed reliance upon the statement of the prosecutrix recorded under Section 164 Cr.P.C. As per her instructions, FSL report is positive though the DNA report is awaited. Upon further instructions, she submits that 05 out of 29 prosecution witnesses including the material witnesses have been examined and the next date before the trial Court is in January, 2022.

Having heard counsel for the parties, this Court is *prima facie* of the view that the material collected by the prosecution would be tested before the Trial Court. The material prosecution witnesses have been

examined and the petitioner, who is in custody for the last more than 1 year and 4 months, is entitled to be released on bail.

Without delving into 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.

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

(SUVIR SEHGAL)
JUDGE

13.12.2021
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Whether speaking/reasoned :	Yes/No
Whether Reportable :	Yes/No