

208 **IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-6042-2022
Decided on : 25.04.2022

Gugan

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. V.P.Sangwan, Advocate
 for the petitioner.

Mr. Rohit Arya, DAG, Haryana.

Manjari Nehru Kaul, J.(Oral)

This is the second petition filed under Section 439 Cr.PC for grant of regular bail to the petitioner in case FIR No.44 dated 07.03.2020 under Sections 343, 376, 506, 34 IPC and Section 6 of POCSO Act, (Sections 363 and 366-A IPC were added later on) registered at Police Station Jhojhu Kalan District Charkhi Dadri.

Learned counsel for the petitioner *inter alia* contends that the inordinate delay of 20 days in lodging of the FIR from the date when the victim went missing from her house lends credence to the fact that a false and fabricated case had been planted upon the petitioner. He submits that soon after her recovery, the victim got her statement recorded under Section 164 Cr.PC on 07.03.2020 wherein she did not even, by way of a whisper, level any allegation of wrong doing against the petitioner rather she submitted that she was upset with her family and she left her home of her

own accord. Still further, learned counsel submits that the victim also stated that she was being pressurized by her family including her father to depose against the petitioner and the factum of she being pressurised by her family to depose against the petitioner finds support from the fact that in the FIR, which was registered on the same day soon after her statement recorded under Section 164 Cr.PC, she came up with allegations against the petitioner, which were at total variance with her statement recorded under Section 164 Cr.PC. In support of his submissions, learned counsel for the petitioner has drawn the attention of this Court to Annexure P-2 i.e. statement of the victim recorded under Section 164 Cr.PC and the FIR (Annexure P-1). He submits that it left no manner of doubt that the victim had indeed been pressurized by her family to level false allegations against the petitioner. Learned counsel submits that the victim was just three days short of attaining the age of majority and her family was averse to her relationship with the petitioner, which was one of the reasons why a false case had been planted upon him. He submits that all this had to be appreciated in the background of the family not even getting a missing report recorded after the victim went missing on 17.02.2020. Learned counsel submits that the petitioner has been in custody since 15.03.2020 and only four out of 14 prosecution witnesses cited have been examined so far and thus, there is no likelihood of the trial concluding in the near future.

Per contra, learned State counsel while opposing the prayer made by the counsel opposite has not been able to controvert the contents of the statement of the victim recorded under Section 164 Cr.PC wherein she did not allege any wrong doing against the petitioner. He, however, submits

that the victim was medico-legally examined soon after her recovery wherein the factum of the victim's person having been violated stands corroborated.

Heard learned counsel for the parties and perused the relevant material on record.

Prima facie it does not appear to be a case wherein the victim was forcibly abducted from the custody of her family as admittedly no missing report was lodged qua her having gone missing. In the facts and circumstances as enumerated hereinabove, more so, since the trial is unlikely to conclude in the near future, the present petition is allowed. The petitioner be admitted to bail to the satisfaction to the trial Court/Duty Magistrate concerned. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

(MANJARI NEHRU KAUL)
JUDGE

25.04.2022

sonia

Whether speaking/reasoned:	Yes/No
Whether reportable :	Yes/No