

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

220

CRM-M-6675 of 2022
Date of decision:24.03.2022

Monu

... Petitioner

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Sandeep Gahlawat, Advocate
for the petitioner.

Ms. Deepshikha Chauhan, AAG, Haryana.

SUVIR SEHGAL, J. (Oral)

Heard through video conferencing.

Instant petition has been filed under Section 439 Cr.P.C seeking grant of regular bail to the petitioner in case FIR No.383 dated 12.10.2019 registered under Sections 365, 34 of Indian Penal Code, 1860 (for short "IPC"), however, Section 376 IPC and Section 6 of Protection of Children from Sexual Offences Act, 2012 were added later on, at Police Station Kalanaur, District Rohtak (Annexure P-1).

As per the version of the prosecution, FIR (Annexure P-1) has been registered on the complaint of mother of 18 years old girl (hereinafter referred to as "the prosecutrix") on the allegation that Monu (present petitioner) and Rahul, who is his cousin, have enticed her daughter and she be recovered.

Counsel for the petitioner submits that neither the prosecutrix was recovered from the petitioner nor in her statement recorded under Section 164 Cr.P.C., she has accused the petitioner of any sexual assault. Reference has also been made by counsel to the testimony of both the prosecutrix as well as her mother-complainant, who have been examined as PW1 and PW2, to submit that both the star witnesses of the prosecution have turned hostile. He submits that the petitioner, who is in custody since 29.10.2019 and is not involved in any other criminal case, deserves to be enlarged on bail.

Per contra, State counsel upon instructions from ASI Nikesh, has opposed the petition by making a reference to the reply filed by way of an affidavit of Additional Superintendent of Police, Meham, District Rohtak, which is taken on record. State counsel submits that the prosecutrix, who declined to undergo a medical examination, is a minor. As per her instructions, co-accused, Rahul has been declared as Proclaimed Offender, his bail petition has been dismissed and 03 out of total 18 prosecution witnesses, have been examined.

Having considered the submissions of counsel for the parties, this Court is of the view that complicity of the petitioner in the offence would be subject matter of debate before the Trial Court and the petitioner, who is in custody for the last more than 02 years and 04 months, would be entitled to be released on bail as the trial is likely to take time to conclude.

Without delving into the merits or demerits of the arguments addressed by counsel for the parties, the petition is allowed and 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.

March 24, 2022

savita

(SUVIR SEHGAL)
JUDGE

<i>Whether Speaking/Reasoned</i>	<i>Yes</i>
<i>Whether Reportable</i>	<i>Yes</i>