

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

213

CRM-M-8063 of 2022
Date of decision:02.03.2022

Tinku

... Petitioner

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Rajender Singh Malik, Advocate
for the petitioner.

Ms. Mahima Yashpal, DAG, 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.350 dated 27.07.2020 registered under Sections 363, 366, 376(2)(n) of Indian Penal Code, 1860 and Section 6 of Protection of Children from Sexual Offences Act, 2012 at Police Station Sadar, Sonapat, District Sonapat.

As per the case of the prosecution, FIR has been registered on the statement of father of 17 years old girl (for short “the victim”) on the allegation that Tinku (present petitioner) has enticed his daughter on 20.07.2020 on the pretext of marriage and his daughter be traced.

Counsel for the petitioner contends that the victim has been recovered from the custody of the petitioner on 28.08.2021, after more than one year, her statement has been recorded under Section 164 Cr.P.C

(Annexure P-1) on the same day, wherein, she has stated that she is married to the petitioner and she is eight months pregnant. He further submits that in her statement, prosecutrix has stated that she does not want to live with her parents, they will eliminate her and her husband and has sought police protection. Counsel has made a reference to the Marriage Certificate dated 28.09.2020 (Annexure P-2), affidavit of the victim (Annexure P-3) as well as her testimony (Annexure P-5) to submit that the victim has not supported the case of the prosecution. He asserts that the petitioner, who is in custody since 28.08.2021, deserves to be enlarged on bail in view of the above submissions.

Per contra, State counsel upon instructions from L/ASI Darshana has opposed the petition and has submitted that as per the school record of the victim, her date of birth is 25.12.2004 and she is a minor even today. She has further instructions to submit that though the prosecutrix has been declared hostile, yet her father, who is the complainant, has supported the prosecution and there are 24 prosecution witnesses, out of which 03 have been examined.

Having considered the facts and circumstances, this Court is of the view that the material collected by the prosecution would remain debatable and the petitioner, who is in custody for the last more than 06 months, would be entitled to be released on bail as the victim has been examined and 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 02, 2022
savita

(SUVIR SEHGAL)
JUDGE

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