

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(221)

CRM-M-15061-2022-
Date of decision:- 09.11.2022

Vinod

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Rajdeep Singh Gill, Advocate for
Dr. (Mr.) Govinder Singh Brar, Advocate for the petitioner.

Ms. Mahima Yashpal, DAG, Haryana for State-respondent.

SUVIR SEHGAL, J. (ORAL)

Instant petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 (for short “the Code”) seeking grant of post-arrest bail in case FIR No.104 dated 13.05.2021, registered for offence under Section 346 of the Indian Penal Code, 1860, however, later on Sections 363, 365, 366, 506 and 34, IPC and Section 6 of the Protection of Children from Sexual Offences Act, 2012 were added, at Police Station Sohna, District Gurugram, Annexure P-1.

Counsel for the petitioner submits that although FIR, Annexure P-1, has been lodged by a father on the allegation that his younger daughter (hereinafter referred to as “the prosecutrix”) is missing from her parental home since 10.05.2021, however, in her statement recorded under Section 164 of the Code, when she was found, the prosecutrix stated that she left her home of her own volition. Counsel has made a reference to the

testimony of the prosecutrix, Annexure P-2, to contend that she had attained majority on the date of alleged disappearance as she has mentioned her date of birth as 27.02.2003 and has specifically stated that the petitioner neither enticed nor sexually assaulted her. He urges that the petitioner has been falsely embroiled in the criminal case. He asserts that the petitioner, who has a clean past and is in custody since 18.06.2021, deserves to be enlarged on bail.

Per contra, learned State counsel, upon instructions from ASI, submits that the petitioner has been named by the prosecutrix in the statement made before the legal aid counsel. She submits that in her statement before the examining doctor, the prosecutrix has alleged that co-accused-Dharamender had sexually exploited her. State counsel could not dispute the testimony of the prosecutrix, however, she submits that the complainant has supported the case of the prosecutrix. As per her instructions, seven out of twenty prosecution witnesses have been examined.

Having considered the respective submissions of counsel for the parties, this Court is prima facie of the view that the involvement of the petitioner in the offence as well as the age of the prosecutrix would remain a subject matter of determination before the Trial Court. Considering that the prosecutrix has been examined, petitioner's custody of more than twenty six months, the stage of the trial and the circumstances of the case, this Court is of the view that the petitioner deserves to be enlarged on bail during the pendency of the trial.

Without adverting to the merits or demerits of the arguments addressed by counsel for the parties, petition is allowed. Petitioner is ordered to be released on bail during the pendency of trial, on furnishing adequate bail/surety bonds to the satisfaction of the Area Magistrate/Duty Magistrate concerned.

It is clarified that nothing said hereinabove shall be construed to be an expression of opinion on the merits of the case.

(SUVIR SEHGAL)
JUDGE

09.11.2022
Kamal

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