

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

214

CRM-M-16898-2021
Date of decision:25.01.2022

Deepak Sharma

... Petitioner

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Sanjay Vashisth, Advocate for the petitioner.

Ms. Mahima Yashpal, DAG, Haryana.

SUVIR SEHGAL J. (ORAL)

Heard through video conferencing.

This is the first petition filed by the petitioner under Section 439 of Cr.P.C. for grant of regular bail in case FIR No.128, dated 06.08.2020 registered for offence under Section 346 of IPC, 1860, (Sections 363/366-A/376(2)(n) of IPC were added later on) and Section 06 of the Protection of Children from Sexual Offences Act, 2012, at Police Station Bond Kalan, District Charkhi Dadri, Haryana.

FIR has been registered on the statement of mother of a 16 years old girl (hereinafter referred to as “the victim”) on the allegation that her daughter is missing since midnight of 01.08.2020 and despite her best efforts, she could not be located. The victim was recovered on 09.08.2020 from a bus stand.

Counsel for the petitioner has made a reference to the statement of the victim recorded under Section 164 Cr.P.C., Annexure P-

3, to submit that the victim has stated that she had left her paternal home with the petitioner of her own accord and that her parents were harassing her because they came to know of her affair with the petitioner. He submits that the victim has further stated that she voluntarily had physical relations with the petitioner. Counsel has relied on the Medico Legal Report, Annexure P-4, to submit that there are no injury marks on the victim and that she has been communicating regularly with the petitioner as is apparent from her letters and messages, Annexures P-7 to P-9. Counsel submits that both the victim and her mother, who is the complainant, have been examined and have been declared hostile. He submits that the petitioner, who is in custody since 13.08.2020, deserves to be enlarged on bail as he is no longer required for custodial interrogation.

Per Contra, State counsel by making a reference to the reply filed by way of an affidavit of DSP, Charkhi Dadri dated 17.01.2022, which is taken on record, submits that a human semen has been detected on the undergarment of the victim. She further submits that the victim has been found to be aged between 16 to 18 years and her consent is immaterial. As per her instructions from L/ASI Neelam, the victim was recovered from the custody of the petitioner and even the car used in the commission of the offence has been recovered from the petitioner.

Having considered the facts and circumstances of the case, this Court is *prima facie* of the view that the involvement of the petitioner in the crime would remain debatable and the petitioner, who is in custody for the last more than 01 year and 05 months would be entitled to be released on bail as all the material witnesses have been examined and the

trial is likely to take time to conclude.

Without examining the arguments addressed by the counsel for the parties, the petition is allowed. The petitioner is ordered to be released on bail on furnishing heavy 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.

25.01.2022

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(SUVIR SEHGAL)
JUDGE

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