

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

CRM-M No.18310 of 2022

Date of decision: 14th December, 2022

Charanjit Rai @ Raju

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Deepak Vashishth, Advocate for
Mr. Amandeep Chhabra, Advocate for the petitioner.
Mr. Rohit Arya, Dy. Advocate General, Haryana
for the respondent/State.

MANJARI NEHRU KAUL, J. (ORAL)

This is second petition of the petitioner filed under Section 439 Cr.P.C. in case bearing FIR No.123 dated 27.10.2019 under Sections 363, 365, 366-A IPC and Section 6 of Protection of Children from Sexual Offences Act, 2012 registered at Police Station Ram Nagar, District Karnal.

Learned counsel for the petitioner inter alia submits that subsequent to the dismissal of the previous petition on 16.02.2021, prosecution evidence has commenced and the victim along with her father stands examined. He further contends that the petitioner has been falsely implicated in the present case which is evident from the fact that the victim, aged 16 years, went missing on 26.10.2019 and was recovered four months later, in the month of February, 2020; however,

during her stay with the petitioner, not even once did she raise any hue and cry qua her alleged abduction by the petitioner, which leaves no manner of doubt that she had accompanied the petitioner of her own accord. Learned counsel further submits that after her recovery on 20.02.2020, the victim while getting her statement recorded under Section 164 Cr.P.C. did not level allegation of any wrong doing against the petitioner. Learned counsel therefore, submits that the petitioner who has now been in custody for almost three years, having been arrested on 20.02.2020, be extended the concession of bail since the trial is unlikely to conclude in the near future, as prosecution evidence is still underway coupled with the fact that the sole material witness, i.e. the victim, stands examined. Learned counsel submits further that in the circumstances, further incarceration of the petitioner would serve no useful purpose.

Per contra, learned State counsel while opposing the prayer and submissions made by the counsel opposite, has not been able to controvert that the victim in her statement recorded under Section 164 Cr.P.C. did not level any allegation of wrong doing against the petitioner, and rather had stated therein that she had accompanied the petitioner of her own accord. He however, submits that while stepping into the witness box, the victim who was 16 years old, had levelled serious allegations against the petitioner of luring her on the pretext of marriage and thereafter, having traveled to different places where her person was violated.

I have heard learned counsel for the parties and perused the relevant material on record.

The petitioner has now been in custody since 20.02.2020 and there is no likelihood of the trial concluding in the near future as only 13 witnesses out of the 18 cited have been examined. In addition to this, the sole material witness i.e. the victim already stands examined. In the facts and circumstances, as enumerated hereinabove, this Court deems it fit to allow the instant petition. The petition as such is allowed and the petitioner is admitted to bail to the satisfaction of the trial Court/Duty Magistrate. However, it is made clear that anything contained hereinabove shall not be construed to be an expression of opinion on the merits of the case.

(MANJARI NEHRU KAUL)
JUDGE

December 14, 2022

rps

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