

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

210

CRM-M-17833 of 2022 (O&M)

Date of decision:02.12.2022

Om Shankar @ Sonu

... Petitioner

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Rajesh Bansal, Advocate
for the petitioner.

Ms. Mahima Yashpal, DAG, Haryana.

SUVIR SEHGAL, J. (Oral)

Instant petition has been filed under Section 439 Cr.P.C., seeking grant of regular bail to the petitioner in case FIR No.0281 dated 31.10.2017 registered under Section 365 of Indian Penal Code, 1860 (for short "IPC"), however, Sections 363, 366-A, 376 IPC and Section 4 of Protection of Children from Sexual Offences Act, 2012, were added later on, at Police Station Quilla Panipat, District Panipat (Annexure P-1).

Version of the prosecution is that FIR (Annexure P-1), has been registered on the complaint of mother of a 19 year old girl (hereinafter referred to as "the prosecutrix") on the allegation that she is missing from home since the night of 29.10.2017.

Counsel for the petitioner has urged that although in the complaint, prosecutrix has been described as a major, but on the basis of school certificate obtained by the prosecution, it is being claimed that she is 16 year old. Counsel submits that age of the prosecutrix is a matter of dispute. Still further, he submits that prosecutrix has not been examined, though all other crucial witnesses have stepped into witness box. He submits that the petitioner, who has a clean past and is in custody since 12.11.2017, deserves to be enlarged on bail.

Opposing the petition, State counsel, upon instructions from ASI Jasveer, submits that the petitioner is accused of sexually assaulting a minor. She submits that complainant has supported the case of the prosecution and medical evidence is also against the petitioner. As per instructions received by State counsel, the prosecutrix was served through the Superintendent of Police, but she did not appear before the Trial Court and her examination has been closed. State counsel submits that eight more prosecution witnesses are yet to be examined, all of whom are officials.

Having considered the respective submissions made by counsel for the parties and taking into account the fact that the petitioner is in confinement for the last more than 05 years, this Court is inclined to accept the prayer made in the petition as the trial is not likely to conclude in near future. Furthermore, as the complainant and other material witnesses have been examined, further confinement of the petitioner would not serve any purpose.

In view of the above, but without advertng to the arguments addressed by the counsel for the parties, petition is allowed. 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

December 02, 2022

savita

(SUVIR SEHGAL)
JUDGE

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