

**108+213 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**CRM-32628-2022 in/and
CRM-M-23081-2022
Date of Decision: 05.09.2022**

RAHUL **... PETITIONER**
VS.
STATE OF HARYANA **.. RESPONDENT**

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present : Mr. Mazlish Khan, Advocate
for the petitioner.

Mr. Bhupender Singh, DAG, Haryana.

VIVEK PURI, J.(ORAL)

CRM-32628-2022

This is an application for placing on record copies of the statements of the prosecutrix as Annexures P-2 and P-3.

For the reasons stated in the application, the same is allowed. Copies of the statements of the prosecutrix are taken on record as Annexures P-2 and P-3, subject to all just exceptions.

Registry is directed to annex the same at appropriate place.

Application is disposed of.

CRM-M-23081-2022

The petitioner is seeking regular bail in case bearing FIR No.507 dated 12.08.2019 under Sections 363/366-A/452/328/506 IPC and Sections 6 and 18 of POCSO Act, registered at Police Station Samalkha, District Panipat.

Custody certificate has been placed on record.

Briefly, the FIR has been registered on the allegations that the victim is aged about 14 years and on 10.08.2019, she went missing from the house. The FIR was lodged by the father of the victim alleging that even the petitioner, who was residing in the neighbourhood, was also missing from the house.

Learned counsel for the petitioner contends that the victim was recovered on 14.08.2019 from bus stand Samalkha. In her statement, she has

only levelled allegations with regard to administration of some stupefying material to her and attempt to commit penetrative sexual assault. Furthermore, during the course of trial, statement of the victim has been recorded and there is no allegation of commission or attempt to commit penetrative sexual assault levelled by the victim against the petitioner. The petitioner is in custody for a period of 01 year, 02 months and 26 days. Although, there is another case under Section 379 IPC registered against him but he has undergone the sentence imposed upon him in that case. Three witnesses still remain to be examined.

Learned State counsel, on the instructions of ASI Kaptan Singh, has not disputed the aforesaid factual aspects as asserted by the learned counsel for the petitioner. However, the bail application has been resisted on the score that the victim was aged about 14 years at the time of occurrence.

Be that as it may, the statement of the victim has been recorded during the course of trial in which the allegations with regard to commission of offence under Sections 6 and 18 of the POCSO Act are not made out. Moreover, she has only imputed the allegation with regard to kidnapping against the petitioner. The statement of the victim has been recorded. As such, it cannot be said that the petitioner, in any manner, can make an attempt to win over or influence the witnesses. The petitioner is in custody for a period of 01 year, 02 months and 26 days and no other case is pending against him. The conclusion of trial is likely to take some time and no fruitful purpose would be served by detaining the petitioner behind the bars.

In such circumstances, sufficient grounds are made out to extend the concession of bail to the petitioner. Accordingly, without making any observation on the merits of the case, the present petition is allowed and petitioner is ordered to be released on bail, subject to his furnishing bail/surety bonds to the satisfaction of concerned trial Court/Chief Judicial Magistrate//Duty Magistrate.

05.09.2022
smriti

(VIVEK PURI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No