

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

CRM-M No.23618 of 2022

Date of decision: 31st August, 2022

Devinder

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Pankaj Bali, Advocate for the petitioner.

Mr. Rohit Arya, Dy. Advocate General, Haryana
for the respondent/State.

MANJARI NEHRU KAUL, J.

This is second petition seeking regular bail to the petitioner under Section 439 Cr.P.C. in case bearing FIR No.312 dated 11.07.2020 under Sections 365, 506, 34 IPC and Sections 8 and 18 of Protection of Children from Sexual Offences Act, 2012 pertaining to Police Station Gharaunda, District Karnal.

Learned counsel for the petitioner vehemently submits that a false and fabricated case has been foisted upon the petitioner, which is evident from the fact that it was after an unexplained delay of one day from the time of the alleged occurrence, the FIR in question was registered; wherein the petitioner was not even named. He submits that in fact, the victim aged 15 years was in a relationship with co-accused Gaurav and since the victim's family was averse to their relationship, the instant case was foisted upon all the accused including the petitioner. He further submits that it could not be believed that the

petitioner along with his co-accused would have mustered the courage to drag the victim inside the car, and that too in the presence of her brother, in a busy market and thereafter, flee away in the car. A prayer has therefore been made by the learned counsel for extending concession of bail to the petitioner, who is a defence personnel, as he has been in custody since 12.07.2020. It has also been submitted that since the victim has already been examined, further incarceration of the petitioner would serve no useful purpose.

Per contra, learned State counsel has vehemently opposed the prayer and submissions made by the counsel opposite. He, on instructions has submitted that when the victim, aged 15 years, was kidnapped by all the accused including the petitioner, she was, thereafter threatened with dire consequences in case she dared to resist or raise any hue and cry and when she resisted the assault she was beaten up by the accused. Not only this, her brother, who was with her at the time of the occurrence, immediately informed his family and the Police about her having been kidnapped. When the accused reached Village Kairwali, District Karnal, tyre of the car, in which they had kidnapped the victim, burst; two out of the four accused fled away taking advantage of darkness while the remaining two including the petitioner were apprehended at the spot in the presence of hundreds of villagers who gathered there.

Learned State counsel has further submitted that the victim in her statement recorded under Section 164 Cr.P.C. gave a vivid account of the crime in question and also spelt out the role of each of the accused in the alleged crime in question. He has further submitted

that the victim, while stepping into the witness box as PW-1, supported the case of the prosecution in its entirety and reiterated her allegations against the accused including the petitioner.

Learned State counsel further submits that the petitioner Devinder besides being an active participant, was not only the owner of the car used in the crime but was also driving it at the time of alleged occurrence.

Learned State counsel has prayed that in the wake of the aforementioned serious allegations against the petitioner, he does not deserve the concession of bail, as there was every likelihood that in case the concession of bail was granted to the petitioner, he could tamper with material evidence and try to influence the witnesses to depose in his favour.

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

Prima facie, there are serious allegations against the petitioner of kidnapping a minor aged 15 years from a busy market and thereafter sexually assaulting her, for which he does not deserve the concession of bail. In view thereof, the petition stands dismissed. However, anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

(MANJARI NEHRU KAUL)
JUDGE

August 31, 2022

rps

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No