

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

CRM-M-28260-2022

Date of decision : 26.08.2022

Krishan Kumar @ Krishan Lal

.....Petitioner

versus

State of Haryana

..... Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. D.P.S. Bajwa, Advocate
for the petitioner.

Mr. Neeraj Poswal, AAG, Haryana.

RAJESH BHARDWAJ, J. (Oral)

Petitioner has approached this Court praying for grant of regular bail in cross-version diary No.220-dasti dated 18.06.2020 in FIR No.249 dated 15.06.2020, under Sections 363, 366-A, 506 of IPC and Section 4 of POCSO Act (Sections 370, 370-A, 384, 389 of IPC added later on and Sections 4 and 6 of POCSO Act were removed), at Police Station Kurukshetra University Kurukshetra.

As per the facts of the case, the complaint was filed to the police by father of the victim, wherein it was alleged that on 15.06.2020, he went to meet his brother Kishan Lal and came to know that his daughter i.e. the victim (name concealed) has gone somewhere. It was alleged that he was confident that Mam Chand @ Dhola son of Krishan Gopal had taken away his daughter with intention to marry her. On earlier occasions also, he had taken her away from Pal Ashram Ladwa. It was also alleged that Mam Chand @ Dhola threatened to register a case against them and he threatened to kill his wife in case they object the

victim. On the complaint, FIR was lodged and the investigation

commenced. During investigation, the complicity of the complainant was also established and he himself was found to have been involved in the case. In all, the prosecution named five accused in this case. The petitioner was arrested on 4th August, 2020. He approached the Court of learned Additional Sessions Judge (Fast Track Special Court for the offences of Rape and under POCSO Act), Kurukshetra praying for grant of bail. After hearing counsel for the parties, learned Additional Sessions Judge (Fast Track Special Court for the offences of Rape and under POCSO Act), Kurukshetra declined the same vide its order dated 24.05.2021. Aggrieved by the same, the petitioner is before this Court praying for grant of regular bail.

It has been contended by counsel for the petitioner that petitioner has been falsely implicated in this case. He has submitted that the complainant in the case is none other than the father of the victim who was later arrayed as an accused in this case. Learned counsel submits that the petitioner was named in the FIR. During investigation, he was falsely and deliberately named in this case. The allegations pertaining to the petitioner regarding extorting money by indulging in the flesh trade of the victim are not established. To buttress his arguments, learned counsel submits that after investigation, challan was presented, charges were framed and the trial Court examined the prosecutrix as PW-1 and mother of the victim as PW-2. Copy of their depositions are also placed on record. He has submitted that the prosecutrix has categorically deposed that they did not know these accused namely, Suresh Kumar @ Bansi, Krishan Lal, Hawa Singh and Vishal. She further deposed that they had never extorted money from Mam Chand @ Dhola and she was never sent

to Mam Chand @ Dhola. Similarly, her mother was examined as PW-2 and she also deposed on the same lines and thus, both were declared hostile on the request of learned Public Prosecutor. He submits that the co-accused Hawa Singh and Vishal have already been enlarged on bail by this Court. He has submitted that once the victim and her mother who are the material witnesses in this case have not supported the case of the prosecution, further incarceration of the petitioner is totally unwarranted.

Learned State counsel, on the other hand, has opposed the submissions made by the counsel for the petitioner and has submitted that there are specific allegations against the petitioner. He has submitted that during investigation, Rs.1,00,000/- cash were recovered from his house. He submits that during investigation, it was found that the petitioner was involved in flesh trade and he extorted money by indulging in the racket of flesh trade. However, he has acknowledged that the victim and her mother have not supported the case of the prosecution. He has also acknowledged that co-accused namely, Suresh Kumar @ Bansi, Krishan Lal, Hawa Singh and Vishal are also enlarged on bail. He has submitted that out of 26 prosecution witnesses, 06 witnesses already stand examined.

I have heard counsel for the parties and perused the record.

Evidently, the petitioner is behind bars since 04.08.2020. The victim and her mother have already been examined and both have not supported the case of the prosecution. The co-accused namely, Suresh Kumar @ Bansi, Krishan Lal, Hawa Singh and Vishal are also enlarged on bail where the recovery of money effected from the petitioner is connected with the alleged flesh trade would be a subject matter of

outcome of the trial. The veracity of the allegations would be assessed by the trial Court only on the conclusion of the trial on the basis of the evidence led before it. This Court would refrain from commenting anything upon the merits of the case. However, confining to the prayer made for the grant of bail, this Court is convinced that the counsel for the petitioner succeeds in making out a case for grant of regular bail. Accordingly, the present petition is allowed and the petitioner is ordered to be released on bail on her furnishing bail/surety bonds to the satisfaction of the concerned trial Court/Duty Magistrate. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

26.08.2022

m. sharma

(RAJESH BHARDWAJ)

JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No