

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

CRM-M No.29066 of 2022

Date of decision: 31st August, 2022

Sajan @ Sanky

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Pardeep Dhull, Advocate for the petitioner.

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

MANJARI NEHRU KAUL, J.

This is third petition seeking regular bail to the petitioner under Section 439 Cr.P.C. in case bearing FIR No.15 dated 08.02.2021 under Sections 363, 366-A IPC and Section 8 of Protection of Children from Sexual Offences Act, 2012 pertaining to Police Station Pillukhera, Jind.

On a pointed query put to the learned counsel for the petitioner as to what was the material change in circumstances subsequent to withdrawal of the previous petition on 20.05.2022, he submits that two prosecution witnesses out of 18 cited, including the victim, have been examined before the trial Court.

Learned counsel, while drawing the attention of this Court to the allegations leveled in the FIR, which has been annexed as

Annexure P1 and which was registered at the instance of the father of the victim, submits that a highly improbable version has been brought forth that while the complainant and his family along with his daughter, i.e. the victim aged 17 years and 6 months, were sleeping in their house, the petitioner along with two others came there and enticed her away. Learned counsel submits that it was 3 ½ months later, the victim was recovered from Noida and thereafter when her statement under Section 164 Cr.P.C. was recorded, she not only did not allege any wrong doing against the petitioner, but stated that they both had become facebook friends and thereafter, the victim had of her own accord, accompanied the petitioner to Noida. He further submits that it was apparent that the complainant was also aware about his daughter's friendship with the petitioner because it was after one week of her going missing that he lodged the FIR in question. Learned counsel further submits that no doubt, in her examination in chief while stepping into the witness box, the victim alleged wrong doing against the petitioner; however it was obvious that she had buckled under the pressure of her family members and leveled allegations against the petitioner, because had it been a case wherein she had actually been kidnapped in the dead of the night from her home, she would not have kept mum for almost 3½ months and would have surely raised some hue and cry as it is not even her case that she was kept illegally confined inside some place. Learned counsel has also drawn the

attention of this Court to Annexure P2, the Medico Legal Report of the victim, wherein it stands recorded by the doctor that the victim had stated that she had accompanied the petitioner of her own sweet will and had not been raped by anyone.

Per contra, learned State counsel while opposing the prayer and submissions made by the counsel opposite, submits that no doubt the victim aged 17 ½ years did not level any allegation of any wrong doing, much less rape, against the petitioner and had exonerated him; however, while stepping into the witness box she had levelled allegations of rape against the petitioner. He submits that 16 prosecution witnesses remain to be examined.

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

Prima facie, it does appear that the victim, who was just a few months short of attaining the age of majority, had accompanied the petitioner of her own accord. The victim, who is a material witness, has been examined before the trial Court along with one other prosecution witness. The petitioner has been in custody for more than one year, having been arrested on 16.05.2021 and 16 more prosecution witnesses remain to be examined. There is thus, no likelihood of the trial concluding in the near future. In the foregoing facts and circumstances of the case, this Court deems it fit to extend the concession of bail to the petitioner.

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 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	Yes/No
Whether reportable	Yes/No