

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

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CRM-M No.28824 of 2022
Date of decision:22.07.2022

Billu

... Petitioner

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Rajesh Malik, Advocate for the petitioner.

Ms. Deepshikha Chauhan, AAG, Haryana.

SUVIR SEHGAL J. (ORAL)

This is the first petition filed by the petitioner under Section 439 of the Code of Criminal Procedure, 1973, for grant of regular bail in case FIR No.761 dated 10.08.2021 registered for offences under Sections 363, 366-A, 376 (3), 506 and 34 of IPC, 1860, and Section 06 of the Protection of Children from Sexual Offences Act, 2012, at Police Station Sadar, District Karnal, Annexure P-1.

Case of the prosecution is that FIR, Annexure P-1, has been registered on the statement of father of a 14 year old girl (for short “the prosecutrix”) on the allegation that Billu (present petitioner) alongwith 04 other accused have enticed his daughter.

By referring to the testimony of the prosecutrix as well as her father, who is the complainant and mother, Annexures P-3 to P-5 respectively, counsel for the petitioner submits that the material witnesses have failed to support the case of the prosecution. It is his argument that in her deposition before the Court, the prosecutrix has stated that she left her paternal home of her own and she was never abducted nor the petitioner has committed any objectionable act with her. He asserts that the

petitioner, who has a clean past and is in custody since 01.09.2021, is entitled to be enlarged on bail.

Per Contra, State counsel, upon instructions from SI Mahabir, and by making a reference to the statement of the prosecutrix recorded under Section 164 of Cr.P.C submits that the prosecutrix has not only named the petitioner but has also alleged that he sexually exploited her. As per her instructions, FSL report has been received, though DNA report is awaited. She has instructions to further state that the prosecutrix was produced by one Seema, who is maternal aunt of the petitioner and she had specifically said that the petitioner had left the prosecutrix with her. As per her instructions, 04 out of 17 prosecution witnesses, have been examined.

Having heard counsel for the parties, this Court is *prima facie* of the view that the culpability of the petitioner in the offence would remain a subject matter of debate before the trial court. The petitioner, who is in custody for the last more than 10 months, would be entitled to be enlarged on bail as the trial is not likely to conclude in the near future.

Without advertng to the merits or de-merits of the arguments addressed by 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.

22.07.2022

(SUVIR SEHGAL)
JUDGE

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Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No